DEPARTMENT OF STATE
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DIPLOMATIC BUREAU
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SEP 7 1889

No. 34.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
SEP 6 1889

Legation of the United States.
Tokio Japan. August 1. 1889.

Mr Swift.
To the S

Certificate of
to citizens of
Government.

Vol. 60.
Japan.
John F. Swift.
August 1, 1889
to
~~February 28, 1890~~

34 — 98.

LOMATIC BUREA
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EP 7 1889

No. 24.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
SEP 6 1889

Mr Swift.

To the Secretary of State.

Subject:

Certificate of nationality to be issued to citizens of Mexico, by the Japanese Government.

No. 34. Legation of the United States.

Tokio Japan. August 1. 1889.

Hon. James G. Blaine.

Secretary of State

Washington D.C.

Sir:

I have the honor to transmit herewith a news paper copy of Foreign Office Notification No. 3, translated from the Official Gazette of Japan, providing for the issuance of certificates of nationality to Mexican citizens under the recent treaty concluded between Japan and the Mexican Republic.

It would seem that it is intended that the issuance of these certificates by the Japanese authorities will be of itself in each case a judicial

determination

determination of the nationality of the applicant; while the possession of it will be prima facie an identification of the individual possessor and, at the same time, a general warrant and authorization to him to travel freely, remain and reside in all parts of Japan and there to engage in and pursue all lawful occupations, on an equal footing with Japanese subjects.

In my despatch No 29, dated July 20, 1889, I had the honor to call your attention to the non-reciprocal character of the privileges extended by the new treaty to all American citizens, commercial and non-commercial resorting to Japan, as well as to what considered as a mutual treaty privilege apart from the municipal laws.

laws of Christian States, is the anom-
-alouness of this concession being, as
it seems to me, so at variance with
the usual lines of treaty stipulations,
always, of course, excepting the
Burlingame treaty which was, in
my judgment, exceptional if not
absolutely unique.

I have the honor to be
Sir
Your obedient servant
John F. Swift

Enclosure.
Notification No. 3. of Department
for Foreign Affairs.

Enclosure with Mr Swift's No. 34

From the *Official Gazette*:—

FOREIGN OFFICE NOTIFICATION No. 3.

It is hereby notified that, with the object of making convenient the certification of nationality at the time when the privileges to be attained by the citizens of the United Mexican States agreeably to the treaty of Amity and Commerce contracted between the Empire of Japan and the United Mexican States on the 30th of November last are put into effect, the following rules connected with certificates of nationality are established.

Dated the 29th day of July, 1889.

Count OKUMA SHIGENOBU,
Minister of Foreign Affairs.

NATIONALITY CERTIFICATE RULES.

ART. 1.—The citizens of the United Mexican States can apply to the Foreign Office for the grant of a certificate of nationality through the local authorities, in accordance with the procedure provided in the present rules.

ART. 2.—Persons desirous of obtaining certificates of nationality shall personally attend at the local offices and lodge with the local Governor their application in which their nationality, name and age are written, accompanied by documents proving their nationality. Should a Consul of the country be resident at that place, his endorsement of the application will be necessary.

ART. 3.—In case applicants have not in their possession documents which may prove their nationality, they shall certify by a document that they are of the nationality mentioned in the application.

ART. 4.—When a local governor shall receive an application for the grant of a certificate of nationality, he shall make an examination as to the facts mentioned in the application and forward the same to the Foreign Office accompanied with his opinion thereon.

ART. 5.—The certificate of nationality shall be granted to the applicants through the local authorities by the Foreign Office. No fee is payable on the same.

FOREIGN OFFICE INSTRUCTION No 1.

THE following is the form of the certificate of nationality to be granted to the citizens of the United Mexican States agreeably to the Foreign Office Notification No. 3 of July, 1889.

Dated the 29th day of July, 1889

Count OKUMA SHIGENOBU,
Minister of Foreign Affairs.

FACE OF CERTIFICATE.

Name.
Nationality.
Age.
The abovenamed .....is certified to be a citizen of the United Mexican States.
Date.

The Foreign Office [Seal.]

BACK OF CERTIFICATE.

NOTE.

In accordance with the provisions of the Treaty of Amity and Commerce contracted between the Empire of Japan and the United Mexican States on the 30th of November, 1888, citizens of the United Mexican States may travel freely, remain and reside in all parts of the country, and they may there engage in and pursue lawful occupations and hire and occupy houses and warehouses in accordance with the laws and regulations of the Empire of Japan similarly to the subjects of this Empire.

Duplicate

From the *Official Gazette*:—

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Count Okuma Shigenobu,
Minister of Foreign Affairs.

Nationality Certificate Rules.

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DEPARTMENT OF STATE
AUG 31 1889
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SEP 6 1889

2D ASSISTANT SECRETARY.
Ack by subject and file.
SEP 5 1889

No. 35. ✓ acknd Sept 7/89 Phelps

Legation of the United States.

Tokio Japan, August 6, 1889.

Mr. Swift,

To the Secretary of State.

Copy sent to the Secretary Sept 4. 89.

Subject.

Opposition to revision of the treaties, and to the proposed new Codes, by a portion of the Japanese press and people.

No. 35.

Legation of the United States.

Tokei Japan, August 6, 1887.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir,

Although it is difficult for an American no matter how long resident in this Country, to form a safe estimate of Japanese opinion; yet I feel that I am quite justified in reporting to you, as I now have the honor to do, that there exists at this time considerable controversial opposition, to the revision of the treaties with the Western Powers, now understood to be going on.

This opposition appears to be based

mainly

mainly, upon the supposed danger to the country likely to arise from the great and sudden change of the laws of the land, involved in the adoption of the new Codes stipulated for in the several new treaties; and in part consists of objection, to the treaty concession to foreigners, of the general right of residence and property ownership in Japan, on an equal footing with natives.

The English newspapers, printed at Yokohama, of which there are three, the "Mail, the "Gazette" and the "Herald", are now publishing, from day to day, translated excerpts from the Japanese vernacular press, showing the state of the controversy as it goes on.

For

For you to gather a satisfactory understanding of this dispute from such Excerpts, were I to send them, would involve an outlay of work on your part, not likely to be justified by the results. I have, therefore, deemed it best, at least for the present, not to trouble you with them, but instead, to briefly summarize what it learn, from all sources, to be substantially the situation.

The long existing desire, on the part of the leading men of Japan, to be released from the disabilities imposed on their Government, by the treaties with western Powers, is well known to you, through the despatches of our diplomatic

agents

against and otherwise.

My predecessor, Mr. Bingham, from the very beginning of his mission at this Capital, entered heartily into the views of Japanese statesmen, and threw his powerful influence in favor of treaty revision. It was natural that such a man, with his strong human sympathies and love of fair play, should promptly take that position.

This sense of justice, was constantly outraged by the harsh, and, as he believed, unnecessary restrictions upon a people, anxious for improvement, education and progress; and in good faith striving for a place among the civilized powers of the Earth; and he was the first foreign

foreign Nationality to offer to submit the lives and property of his Countrymen domiciled in Japan, to Japanese jurisdiction.

And no one can dispute the correctness of his views, when considered in the abstract.

But whether the change about to be accomplished, takes in view of the concessions Japan is making to foreign powers, as the alleged price, will be upon the whole grind for the Japanese people, is a question I cannot undertake to decide, but which the vernacular press is now discussing with a degree of earnestness and even heat, worthy of the attention of all concerned.

Of

Of the capitulations complained of by Japanese statesmen, viz: the extra-territorial rights of foreigners, and the fixed tariff and commercial, and navigation regulations, it seems the former one, is the more objectionable, and the one they are the most anxious to be relieved from.

In a former dispatch, my No. 25. dated July 16. 1869. I mentioned to you in substance that I was surprised to find this to be the case, and suggested that it seemed to me to be due, rather to sentimental, than to practical statesmanship.

In saying this I disclaim any disposition to condemn the sentiment I assumed to exist:

The

The sentiment of a people, having its basis in patriotism, is always a respectable, and often a controlling, factor in politics as well as in diplomacy.

But it seems to me that even as a sentimental question, the enforced commercial and navigation rules, the elections, duties and tonnage and lighter dues and port charges, fixed by treaty stipulations, and unchangable except by foreign consent, are things in themselves far more humiliating to Japan, as a sovereign state, than the bare circumstance, that a few hundred foreign residents are tried for their delinquencies by their Consuls and under the laws

of their own country.

That a system which makes the entire foreign trade of the country, its regulation and revenue, including its Customs duties, both upon imports and exports, subject to the caprice, or selfishness of the commercial and manufacturing interests of Europe and America, is not only humiliating to the subject-state, but is a burden upon its material prosperity, and a drag upon future progress, and development; so manifest and so monstrous, as to make its removal a matter of primary importance.

By the side of this wrong, it seems to me, that Consular jurisdiction is a mere bagatelle. Yet the nations have given up the Customs duties

duties, simply stipulating for an agreed upon increase, but the entire tariff is fixed in the treaty, article by article, and the duty even on pins, & lucifer matches cannot be changed, without asking leave at London, Berlin, and Paris.

But in return for this, they will in five years get rid of Consular Courts, and the trifling number of cases that have been tried in them, will then go to the Judges of Japan:

Let us see what, out side of sentiment, they have gained by the change. The population of Japan approximates 39,000,000; they are spread over a territory of 147,669 square miles. At four commercial ports in the Empire

Embracing

embracing what are known as Foreign Concessions, covering not over 500 acres, where reside and do business a population of 2000 Europeans, and scattered through the country, subject to Japanese revokable license, in practice renewed half yearly, but not covered by treaties and therefore matters of favor, in each instance, are about 150 more, engaged in Educational and Christian missionary work; which first named class, if not the second, even the Japanese themselves, must admit are beneficial. It is much the custom to consider that these 2000 foreigners in Japan are exempt from Japanese jurisdiction and only subject

to

to the laws of their own Country, administered through their own Consular Courts. But this notion is very far from being accurate.

They are only exempt from Japanese jurisdiction, as to their delinquencies, civil, and criminal.

If a foreigner is accused of wronging a Japanese, such foreigner is tried by his Consul, under the laws of his own Country. But not 2 per cent of the resident foreigners, are ever guilty, or suspected of being guilty, of a breach of a contract or of the peace, towards any body, native or foreigner. They are a class of people who habitually keep their engagements, pay their debts, and respect the persons and

property

property of others.

And as to the great body of litigation, they are liable to be involved in, as to all process, mesne and final, to protect them in their persons and property, as against the 39,000,000 people amongst whom they live, they must appeal to Japanese Courts, and must submit their rights and seek their remedies for injuries, civil and criminal, inflicted upon them, from the laws of Japan. If a Japanese assaults a foreigner, or breaks his contract with him, or cheats, or swindles him, or steals, injures, or detains his property, the foreigner must seek his remedy of Japanese judges, and according to Japanese law.

I

I do not therefore think it an Error
in arguing that only is part and
that not to be the most important
part are resident foreigners exempt
from Japanese laws.
If a foreigner could hurt a Japanese
into his Consular Court, and compel
him there to plead and defend himself,
the thing would be different.
And when the smallness of the
number is contrasted with the
millions of native population,
it does look as if the unfortunate
exception territorial rights has been
exaggerated, at least when compared
with the other injunctions
upon all Japan in Controlling
the revenues and Navigation laws
of the Country, and which writers

reaches

reaches and acquires millions of men who, scarcely, have spent a year in the whole course of their lives.

At this point it may not be out of place, to correct what is evidently an inadvertent misstatement, of my friend de la Jonkaire, Mr. Hubbard, in his dispatch No 65 dated February 20, 1887

in that dispatch, if he does not say so in terms, he certainly gives the impression, that the Japanese Codes, have already been adopted and are now in force. What he says is this; "Their (the Japanese) Codes of law, Civil and "Criminal, are founded on a just "system, and largely taken from the

West-

West."

This statement is substantially erroneous. No civil codes have yet been adopted in Japan. A Criminal Code was put in force, several years ago, the work, I believe, of M. Boissonade de Fontarabie, and said to be modelled upon the French system, but no jury trial has been provided for, nor is any in contemplation. Trials, both of law and fact, are by the Judge.

It is understood that torture is no longer resorted to, as a proceeding in Justice — but I hear it asserted by persons of respectability that it occasionally is still practised by the detective police. For the correctness of this report I cannot vouch.

There is no doubt that the French

Gentleman

gentleman who drafted the code, intended it should be abolished, but I do not think it has been done, further than by the adoption of a code of Criminal procedure, providing other methods of proving guilt, and omitting that of torturing the accused which in America would certainly be held to be a good repeal by implication. And that such would be the effect seems at first glance to be probable. One naturally thinks that a practice so revolting would never be given except by express command of statute; and would cease when the Crime ceased to be [illegible] But history does not show this to be the case. In Scotland, torture existed as an institution, founded as

as it stood Charged, upon the Civil Law of Rome, and had finally to be prohibited by Practice as a Crime. This was not done till as recently as the 7th year of Queen Anne, and the Practice certainly lingered for a long time after, the "boots" being still used by the police in Ireland, & granted, I think, as a judicial proceeding. It may be that the Japanese police, like the Turks, are prone to Constitute themselves the Judges of such necessity. It is, at least, questionable if a Statute that Legalizes especially authorized torture, as a regular proceeding in Criminal trials, is likely in the Course of a single Age altogether to leave it off.

Will

It will not the generation that lives ever thought it necessary in the detection of Crime, Come back to it- nor what they may think to be a grievous Case? All English authorities declare, some with scandle, that it was never lawful to torture accused Criminals in England. It was distinctly prohibited by Magna Charta, Yet done whenever the Crown = must wanted it done, and who shall say Cases of that kind do. Long after the English people were familiar with all that Shakespeare could teach of justice and mercy, accused prisoners were regularly tortured at Bridewell under warrants issued from the Privy Council. And after the severest

hard

Law, had written his noblest
Work, Guy Fawkes was put
upon the rack, and guaranteed
by the greatest light of the English
Law, Lord Coke himself, All of
this in the teeth of Magna Charta
and at a time when our English
ancestors were certainly not much
inferior in either enlightenment
or humanity to the people of
Japan at this day.

There is also in force a Code of Civil
Procedure Act or Law of Civil Proced-
ure providing for uniformity of
proceeding in Courts of First Instance
with provision for new trials and
appeals to Courts of Cassation:
on this as the name would indic-
ate, the Courts of appeal, the French

System

system is taken as the model. But as yet the great body of the civil and political laws of Japan are not only not defined but unwritten. And they are not, in any respect, English precepts, but are and always have been, of Japanese, since they always have been, of Japan, last existing political laws, that have still existed. And if my predecessor intended to state the impression that the laws of Japan had been made to conform in any respect, outside of Original Creation, to the laws of Western nations he must have been misled.

It is frequently met by foreigners, long resident in Japan, who are

me

me that there is no such thing as Japanese law, and that they never have had any. That on the contrary, the Magistrate decides each case according to his notions of justice in that particular manner. And that these Codes, when adopted, will be no change to the Japanese, except that for the first time they will come under a defined and uniform system of laws. This I am not willing to believe. That Laws not in writing are no laws at all is an idea apt to afflict the mind on such a day as this of printing presses and stereotyping methods. But I doubt if any organized society can exist without recognized laws, oral or in writing, sufficiently

sufficiently settled for the people to have some notion of their provisions.

And I am sure that no nation could attain the state of refinement and civilization, of which I see evidences all around me in Japan, in a regular and systematic manner, commerce, supported by the industrial and fine arts, abounding and encouraged, without settled rules protecting life and property, enforcing obligations, regulating and defining the relations between individuals, their conduct towards each other, and providing for the distribution of property upon the death of the possessor, among his family or kindred, according to legal rules.

And

And inasmuch as no Law & Constitution exists as to ~~mine~~ of the above subjects it follows that they are unwritten. The civil and political laws of Japan must be found in the ancient customs and usages of the Country. And while the fact that these customs and usages rest in tradition, instead of in writing, involving in consequence, more or less irregularity in the administration, still the long continued peace and prosperity of the Country and the stability of its institutions, are sufficient evidence that they must have been upon the whole satisfactory to the people both in theory and in practice.

There

There were no written laws in England until King Alfred compiled from the known Customs and usages of the Mercians, of Wales, the West Saxons, and the Danes settled on the East Coast, his "Dom Book" or "Liber Judicialis". But it will not be claimed that our English ancestors were up to that time without law.

In the evolution of law, from the unwritten to the written, probably in most civilized Countries, has been greatly promoted by such men as Blackstone and Bracton who wrote down those traditional usages, and bound them up in books, whereby they became settled and fixed instead of variable, according to

Memo

~~In many opinions and recollections.~~

~~Many of the firmest Established~~
~~Laws of England at this day, have~~
~~neither Royal decrees nor legislative~~
~~enactments, nor judicial decrees,~~
~~upon which to rest for authority.~~
~~I have sometimes read of a famous~~
~~English Judge, who questioned~~
~~if an adjudged Case could be~~
~~found in the books, where the~~
~~distinct points had been decided,~~
~~as upon demurrer, that tin~~
~~England, at death a man's land~~
~~descends to his heir, and his~~
~~personality to his Executors.~~

~~I have always seen the Law in~~
~~England, and never by had thought~~
~~of calling it in question. It~~
~~therefore cannot help thinking~~

that during all these "ages eternal
and unbroken" that the Emperor of Japan
and his ancestors, as he informs
us in his Imperial decree, have
ruled this Nation, there must have
grown up ancient customs, and
usages, satisfactory to the people,
because based upon natural
justice, and suitable to their
condition and wants, respected
by the Sovereign, and enforced
with reasonable uniformity,
by his Courts of Judges.
And now it is understood that
Japan or, at least, the Government,
has resolved to make, at an
early day, indeed during the
present year, by a single edict
and in advance of the assembling

of

of the new Parliament, an entire body of laws for the government of the Empire; and all within its territories, natives as well as foreigners. It is not pretended that like the code of Justinian, or, King Alfred's "Dom Book", this new Japanese code, is a collection of the ancient laws, customs and usages of the people to be governed by it. On the contrary, it is entirely the sole creation of the French gentleman above named Mr. Boissonade de Fontarabi, Professor of Law, resident in Japan where he has been employed by the Government for this very purpose. The ancient laws of Japan are to be swept out of existence by

big a stake of the Jews. But well
or how ill this sole law giver has
discharged his great trust. I have
no means of judging. Few indeed
I apprehend of doing so, as I have
not seen the work in which Josiah
Quincy has done it. Those however, is no serious charge.
There have been many law givers,
able to legislate wisely for nations,
though the most successful, even
at least as to durability, lacked the
advantage of direct inspiration
from the Almighty. The tables
Tables are lost, while the ten
Commandments are still
recognized, if not always
obeyed.

The Romans thought less of their
unwritt-

which distinguished from the ~~laws~~ ~~which~~ ~~made~~ an undertaking but those ~~which~~ ~~did~~ ~~not~~ ~~to~~ ~~have~~ been abrogated, ~~or~~ ~~repealing~~ with. or ~~repealing~~ from Solon, the single legislator of Athens.

The Constitutions of Zaleucus, the sole Law giver of Locri Epizephyrii about 200 years, but they ~~contained a provision that~~ the Citizen proposing an amendment must stand forth in the Market Place with a rope around his neck and if the measure was not ~~approved~~ the innovator was immediately strangled.

But laws may be good without being perpetual or durable. And it is only fair to allow the

institutions

institutions of the Province to have
fraternities, to defend their rights
their methods, and how they do
they may deserve to last. That
however some of the newspapers are
unwilling to do. Attacks are being
made upon the Diet on the
advantages of their formulization
in addition to the criticisms
of a portion of the press, there
has also been a Japanese
Academy of Law composed of
several thousand students and
professors, and thought to be a
body of great influence, has
pronounced against them, which
circumstance is said to have
given the friends of the new
system some uneasiness.

With

With a few exceptions, the criticisms I have seen, do not shake my mind as being convincing. I can understand objections based upon the danger to arise from suddenly abolishing the ancient and known laws of the country. I can appreciate a hesitancy to substitute in the place of such ancient customs a system which however perfect in the abstract and suited to an ideal colony of Arcadians, may not fit the habits of the Japanese at all. There have been animadversions upon the employment and possible meaning of certain technical civil law terms, such as "Emphiteusis," "usufruct," "servitudes" and the like, on the ground that they

thing cannot be translated into Japanese because of the inflexibility of the Chinese character in use in Japanese literature. But the answer to this is that any science worthy of the name has its technical language, and that any other system of laws, unintelligible as objectionable. Suppose the Criminal Laws had been developed, and set forth in the new Code, how would the translator manage by stenography to explain the mysteries of recognizance and contingent remainders, of executory devises, of fines and collateral warranty, or the rule in Shelley's case. Or imagine the Japanese student poring over

the

the Chinese kept intended to suppress the famous question put by Sir Thomas More "whether heads of the "felons taken in wilderness are" "reputable". If the Japanese are to adopt as Code of their Laws any Country, one based upon the Civil Laws, is likely to be as simple as any, perhaps the most simple. Indeed from any European system of Laws can be translated into the Chinese Character, it does not involve much and should contain the possibility of the people of Japan can stand it, certainly the few European residents are not disposed to quarrel upon the matter, the risk if there is any risk, in adopting the

Codes

Codes of Mr Brassvisible de Fontarabie arises from introducing 30,000,000 people into the Legends and complications of a law, wholly new to them, and the antipodes of their old system, but which is necessarily understood only by a professional class, and is a limited class at that.

But it would not be just to the statesmen of Japan to declare that the new Codes will be adopted without change from the original text: They say they will be carefully adapted to Japanese circumstances before they are put in force. All they admit, that their immediate duty is to be done, namely the fulfilment of the treaty stipulations with foreign

foreign powers. On the contrary they claim, that the Codes are to be adopted quite independently of treaty stipulations, merely as being contemplated steps to be taken in the course of Japanese development, and progress.

But part of this claim is the fact that this Parliament has been known to be engaged in this work of law making for at least two years past.

The civil code alone in the course of its progress has already passed through two or three editions, each one being a revised and improved transcript of the one preceding it.

In addition to this, in support of the position of the Government, it will

it will occur to the mind of the most casual observer, that a body of thoughtful and discreet politicians, such as the leaders of Japan are admitted to be, are not likely, for the sake of bringing two thousand foreign merchants, and tea chests, under Japanese jurisdiction, to deliberately, put their hands into the rag bag, the ancient and time honored usages of 39,000,000 of people, and to force upon them, a brand spick and span, set of new laws, in a new and unknown language, made in a hurry, like a suit of summer clothes, ordered from the nearest tailor, and replace them by a code of laws written out to order by a civil law professor

who

who however learned as a civilian has had no practical political experience in Japan, or any where else out side of a college; and it will not be believed that they have done so upon any thing short of the most conclusive evidence. As to the merits of this dispute, I might aptly decline to give an opinion even if I had one, and it is no easy matter to have one worth giving.

If the setting aside of the old Japanese laws, is not consequent upon treaty revision, and a part of it, but merely an accidental coincident circumstance, as is claimed by the Government, it seems a pity that the new laws

laws were not carried into operation, at least upon the 39,000,000 people of Japan who are the most interested in them.

By not doing so, the Japanese people may become greatly alarmed at the contemplated changes, thereby being rendered suspicious of the foreigners who they imagine are cunningly preparing a system of code and rules only understood by themselves to favor their own interests at the expense of the native population. Having already extended this despatch to what I fear is an inconvenient length without saying any thing upon the

Second

second branch of the subject under consideration, namely, the objection made by Japanese to the rights of general residence and property ownership conceded in the treaties to foreigners, I will defer that matter to another time.

I have been so impressed with the force of an article translated from the "Jiji Shimpo", understood to be from the pen of Mr Fukuzawa, its able proprietor, one of the strongest men, out of official life, in Japan, that I take the liberty of sending it to you herewith.

In this article you will observe that reference is made to a declaration by the American

Minister

Minister made last year, to the
Effect that "the laws of South
"American Countries, are far
"behind those of Japan both
"in form and Effect."
And from this declaration which
it is said Mr Hubbard made
in a public speech, before the
graduating Class at a Law school,
the "Jiji Shimpo" proceeds to argue,
that "the Americans are in favor of
"submitting themselves, to the laws and
"customs of Japan, just as they are
"at present, without any concurrent and
"codification, that being a purely domes-
"tic matter."
I cannot imagine any able and
learned predecessor, making such
a comparison, between the laws

of

of South America and the civil and political laws actually in force in Japan at this time, for these latter being "lex non scripta" however learned he may be in South American law, he could have no sufficient means of comparing them.

The original codes of Japan, having been Europeanized after civil law models, which is the basis of the laws of Spanish American countries, it is probable that they are not greatly different from those in force in South America.

But every lawyer knows how insignificant a branch of the law, is that dealing with criminals when compared with

with the great body of principles affecting the Entire Government, and peoples of a Civilized Country.

That the great body of the Community, are innocent of crime, and would be so, Comparatively speaking, if there were no Criminal Laws.

That the great body of law abiding people have no concern with final Codes Except as they tend to protect life and property.

And that whether crimes are punished severely, as they were in the last Century or mildly, as at earlier periods, (as when murder was punished by

by a pecuniary fine, or as now, that under advanced ideas, penology has become a science, the crimes that disturb society are still committed, mainly, by certain abnormally constituted individuals, who, when taken together, are known as "the criminal class," while the aggregate amount of crime year by year, from year to year, has never greatly varied.

But the municipal civil law, dealing with property and governing the relations between individuals, and between individuals and the State, affect every man, good and bad, and the better and more

active

a clive citizen, an individual happens to be, the greater interest he has in these laws and the more seriously he is affected by them, I am, therefore, bound to believe that both in his speech on the occasion alluded to, and, his dispatch to the Department of State No. 554, my gifted predecessor, Mr Hubbard, was referring, not to the laws as they now actually exist, but to a future time, after the Codes of M. Boissonade de Fontarabie should have been adopted.

I also have the honor to send you a clipping from the "Herald" of Yokohama containing the Communications written respectively by

by well known foreign residents of Japan, one a lawyer of eminence, which I consider worthy of your attention.

I have the honor to be

Sir,

Your obedient servant,

J. H. Swift

Enclosures:

1. Clipping from "Japan Herald" July 27. 89
2. Clippings, " " " 24. 89.

Enclosure 1. with Mr Swift's No. 35.

TREATY REVISION AND THE CODIFICATION OF THE LAWS.

(From the *Jiji Shimpo*.)

The revision of the treaties has now become the most important question of the day. Those who consider it from the standpoint of finance, say that if the country is thrown open to foreigners and they are allowed the same privileges as Japanese, so that land and shares may be held by them without any difference, our own people will be pressed down by means of foreign skill and the introduction of cheap capital. In short, all the substantial benefits will fall into foreign hands, while we will be sunk in ruin day by day, so that in the end our appeals for independence and national rights will be of no avail. This is due to the foundation of our financial circles being weak, and also to the fact that our capitalists are yet unable to compete with foreigners. They say they cannot see wherein the advantage lies of sacrificing the present substantial benefits that are accruing to the country for treaty revision. The right of possession of land, etc., should positively be in the hands of Japanese, there being a vast difference between the political economy of the whole world and that of a single country. On the other hand there are persons who declare that in order to develop the resources of the country foreign capital must be introduced. It would seem, on a superficial view, that we are deprived of the benefits accruing from land being reclaimed, woods regulated and mines worked by foreign capital, but foreigners do not carry away our land, so the benefit must be ours in the end. Again, the profits on farms and rice fields are so small that foreigners would refuse them even if offered to them, so that the fears of our countrymen of becoming tenants of foreigners is superfluous. The anxiety felt that commercial and industrial enterprises will be undertaken by them on a large scale is also unnecessary. In foreign countries speculators are scant in their resources, and even though they may come in with suitable capitals they cannot at once set actively to work. They would proceed by degrees: in the meanwhile the Japanese would be prepared to compete with them. In European and other countries generally no restraint is placed on foreigners relative to the possession of real estate and other property, therefore we cannot avoid the stigma of narrow-mindedness if we still insist on sticking to the old principle of seclusion if we refuse them this privilege, so that they should be allowed the free possession of real estate and other property. Such are the opinions held by the public relative to this question. Now, when we look on the condition of Egypt, we there see as it were the arguments of those opposed to the introduction of foreign capital exemplified. The finances of that country are controlled by foreigners, but in the United States, the people turned themselves from the first to agricultural pursuits and left the introduction of industries and capital to Europeans agreeably to the principles advocated by those who favored the introduction of foreign capital. Therefore no industries are monopolized there; on the contrary, the industries of that country are increasing and the debt is steadily being repaid, while the basis of the resources of that country are being made firm. Indeed, the prosperity and peace of the United States are enough to call forth the envy of all the other countries of the world. When we see such diversity in the result of the introduction of foreign capital, we are led to believe that the benefit or otherwise accruing therefrom depends not so much on the introduction of the capital itself as to the ability of the people. Whether the introduction of foreign capital will be a success or a failure with us is, we think, more than mortal man can tell. We believe our countrymen are not like the Egyptians, therefore we think there is no reason why permission to possess real estate, etc., by foreigners will prove positively disastrous. Next, we hear that in the draft of the revised treaty previously submitted it was provided that foreigners would be employed in the Courts of First Instance, Appeal and of Cassation; but that now it is provided that foreigners will be engaged in the Court of Cassation only, and that their number will be limited to four. Although this is an advance as compared with the former result, yet it is a concession of judicial rights to foreigners, even if the appointments are only to the Court of Cassation. We are indeed ashamed as are also the public on this matter, but if the circumstances leading to it be well examined it will be found that we could not very well help ourselves. Our country, since its foundation, has stood in seclusion for more than 2,000 years, during which time we lived quietly and happily. In the era of Kaei, however, we were obliged to open our country, so that we stood in a passive position in that respect, our country being in the position of a dependant while foreigners were undertaking its opening. Even the draft of the treaty was framed by them, the relation between foreigners and Japanese being similar to that of an adult and child. From the very outset we yielded them some steps, and we have been struggling on through thirty years to retrieve them. Such being the case, we must reconcile ourselves to a majority of foreign judges in the Court of Cassation as provided in the present revised treaty. There is no one to be blamed or censured in this. The fault does not lie in insufficient exertions on the part of the authorities nor the inefficient policy of the Government, but rather to the impotence of the Tokugawa Regency when menaced with the treaty, and to our policy of seclusion. If this provision is to be taken off after twelve years as is reported, then it would be truly time to recover our national rights and make perfect our independence, which will be a moment of intense satisfaction to the people, therefore we are not at all dissatisfied with this provision of the appointment of foreign judges. If we are asked whether we have nothing further to criticise, we would say that there is yet the subject of the codification of the laws. An opinion on this subject is to the effect that as the codification of the laws will have an immense bearing upon the people, the manners and customs of the people must be deeply considered and studied, otherwise their distress will be great. The people of Japan are masters of the country while foreigners, being only visitors, their number is small, therefore it is improper to consult their convenience alone in the codification of the laws; the people of the country should be considered also. On the other hand, those who contradict this opinion say that the codification of the laws were not set about because foreigners are to reside in this country. This scheme was projected and commenced years ago, therefore it is not related to mixed residence, the purpose of codification being undertaken for the benefit of the people of this country only. Although some declare that it is necessary to put the code into practice when the Consular Courts are abolished, yet they were not codified for the convenience of foreigners. They were only drafted to suit the manners and customs of the people. We do not know which of the two opinions is right, but we put more trust in the latter. Now, the United States was the first to agree to treaty revision, a diplomatic official of that country having advocated the justice of

Japan's demands, and is said to have spoken to the following import last year. The laws of Japan are greatly improved both in name and reality, so no concern need be felt in committing the lives and property of foreigners to them. The laws of South American countries are far behind those of Japan both in form and effect, yet they have been able to make treaties on an equal footing with civilized countries, therefore the impropriety of Japanese law cannot be made an excuse in objecting to the revision of the treaties. From this it will be seen that Americans are in favor of submitting themselves to the laws and customs of this country just as they are at present, without any concern as to the codification of the laws, that being purely a domestic matter. If the feeling of the Americans is such, we do not think other countries will interfere in our laws without cause, more especially as we are also of the opinion that the codification of the laws is a project of long standing, its object being solely for home administration in order to gradually lead the people to civilization, and not for the benefit of foreigners. We would like to see the code in order to ascertain whether there is or is not any trace in its articles and sections of its having been drafted for the benefit of foreigners as declared by some, but not being yet made public we are unable to do so and will content ourselves with making a few remarks on the code in general. The criticism of the public on the draft code and the other laws annexed thereto are very severe, their inadaptibility being censured, but the public may have gone to the extreme of picking out only the weak points. We shall be careful not to do so, but if we were to deliver an opinion we think we would not be far wrong to say that the form and spirit are purely Western. A civil code should be based on the religion and customs of the country. As the former operates on society, so laws are formed to judge and control them. In short, the civil code is embodied to meet the existent conditions in a country. As the law in Western countries may agree with the customs and religion of those nations, so in Oriental countries the case must be the same. Should an attempt be made to modify Western laws to meet the characteristics of the Orient or *vice versâ*, the spirit of the law is mistaken. As the customs and religion are different, so also must the laws be so. However, when we look into the condition of the country we see the tide of civilization is flowing on as we desire. Commerce, arts, social intercourse and even raiment and food are undergoing a change, and in the upper classes there are many who are almost Europeanized. At present the rights and duties of men are much talked of, and the manners of the people are approaching the condition of the West. Feudalism has passed away, everything having undergone a change, so that even though the manners and customs of the people should be taken into consideration in framing the laws, the judicial system at the time of the Tokugawa Regency ought not to be retained nor the criminal law supplanted by the present Penal Code be applied. Foreign laws must be taken into consideration, but how far they are to be applied is a question requiring study. We believe the law is like food. Japanese eat rice principally together with fish, vegetables and soy, while foreigners make wheat their chief food together with meat, salt and sugar. Thus the materials of food are different, so that the question is what course is to be pursued to introduce foreign manners. For instance, Japanese eat dried sardines; from this it should not be taken for granted that they would like ham. Japanese are called fickle, but on the other hand they are active and rich in the spirit of advancement. This being so, if a change is at once resolved on it may readily be effected and that too without any great aversion. Granting that this is possible, such important matters should not, however, be handled without mature reflection. Every care and precaution ought to be taken to effect a gradual change, so that the adaptibility of the novelty may be well tried. If many different kinds of law should be forced upon the people, society will be disturbed and the authorities will be unable to escape the blame of making sport of the people. As we have already observed, in the legal principles of foreign countries the manners and customs of the people are taken into primary consideration, therefore in the present case these should be considered of first importance, foreign law being gradually introduced. The process should be to make the provisions of the codes just sufficient to the wants of the people; in short, simplicity should be aimed at. It may excite the mirth of such persons who expect perfection, but their ridicule should be disregarded. A slow advance should be made so that agitation in consequence of hasty measures may be avoided and their extent limited. Where sense and ignorance is mixed and the latter predominates as is the case in this country, resolute measures should be modified if the happiness of the majority is desired. A country is not to be made a plaything of by the *literati*, and we are not at all desirous of staking the interests of the people for an experiment. We do not object to the codification of the laws nor denounce foreign legal principles. What we wish to convey is that the manners of the people are being gradually Europeanized, foreign legal principles being introduced into our codes to make it an enlightened one, but as the characteristic manners and customs of the people will be taken as a basis on which foreign legal principles will be engrafted, there will be points which will seem strange and not satisfactory to them, and they may complain after mixed residence is allowed. Although we shall be as hospitable as possible to foreigners who may reside in our country, being visitors to us, yet we cannot help thinking that the code framed for home administration should not look like a foreign one but present Japanese characteristics, and should not yield a step on this point. For instance, supposing that foreigners should be desirous of lodging in a house – they sleep on bedsteads in their own homes, while there are only *yagu* and *futon* in ours. Should the Japanese be forced to use bedsteads for their convenience it would be against the condition of the country, nor is there any necessity for such a step. We would serve them in such a case with *yagu* and *futon* with pleasure, but if they should dislike the appearance of these warm and confortable things and refuse to sleep on them, we would only have to decline them lodging, although with great reluctance. The codification of the laws is a weighty matter literally and in spirit, therefore the great principle of independence should not be discarded.

Enclosure 2. with Mr Swinhoe's No. 35

We publish, in another column, a letter from a correspondent respecting the drafts of the new codes. These scarcely seem to be in a satisfactory condition. The Hogakushikwai, a society which comprehends within its ranks most of the Japanese lawyers, memorialised the Government against them as soon as the drafts were submitted to them, and it seems to us that since then there has been nothing but one continued chorus of objections to them. Not having personally perused these drafts, which, we understand, have now been rendered into English, we may be pardoned for not submitting an opinion thereon, even were we capable of doing so, but when we find both Japanese and foreign lawyers uniting in speaking of the difficulty of understanding them, and when we see continued complaints from Japanese officials high in the social and official scale, we are tempted to ask whether it may not be that these objections are founded on truth. The whole question is, however still in a chrysalis state, inasmuch as there are at present no codes, but only the drafts of such, and it is to be presumed that the object of the Ministry in submitting these codes to the various bodies, was to get a frank and unbiassed opinion thereon. There is every reason therefore to believe that the Government will take due notice of the objections, whatever they may be, urged against them, and will carefully weigh them, as it would be matter of sincere regret should it be afterwards found that the new codes, destined to harmonize the laws of Japan with those of European countries, were so complex or so badly worded as to be incomprehensible not only to the mass of the people, but to those destined to administer them.

Correspondence.

(We are not responsible for the opinions or sentiments of our correspondents.)

To the Editor of the *Japan Herald.*

Sir,—Just before reading the comments of General Tani on the codes, as reported in your paper of yesterday evening, I had been favoured with the perusal of portions of some of the English versions of the drafts, which enables me to endorse the opinion attributed to the General, except that when translated into English, foreigners will "understand them pretty well, being used to their own complicated phrases and expressions." I think, on the contrary, that English readers will find themselves in precisely the same predicament as the General; and if laws are written for the understanding of the people, the parts of those that I have seen are an utter failure.

Your's faithfully,

J. F. LOWDER.

Yokohama, 20th July, 1889.

THE CODES AND TREATY REVISION.

To the Editor of the *Japan Herald.*

Sir,—The question lately raised with regard to the sufficiency, rationality, and adaptability of the Japanese codes that have been so long on the anvil, and which were so assiduously paraded as well nigh approaching perfection, and certain to meet the legal requirements of the country, is a most serious one for the Government to consider. The subject is one of prime importance to the people of this country as well as to foreigners whom it is proposed to bring under subjection to the legal provisions of the codes, and the procedure incident to their practical application to the concerns of the body politic. The grave doubts which have been created will have to be dispelled by a revision, say, by the hands of a commission of competent jurists of the codes as prepared, purged of their alleged absurdities and their deficiences made good, in subordination to the principles of intelligent jurisprudence, the teachings of experience, and the dictates of reason.

For years M. Boissonade de Fontarabie has been employed in the work of making the codes with the co-operation of a number of 'prentice hands. The latter may certainly be regarded as being unequal to one of the most formidable tasks which can be imposed even on the competent. The responsibility however of the situation rests upon M. de Boissonade and the Government, and the public, native as well as foreign, cannot, ought not, and will not be satisfied until the codes have been amended and some authoritative assurance given that they will be likely to fairly subserve their purpose.

The denunciation of those legal practitioners who have had the opportunity afforded them of perusing and studying the new codes, and who have published their adverse opinions, naturally influences the public mind and alarms it. Those ministers who have lately been stealing a march on their colleagues by secretly discussing and signing altered treaties, must feel, or at least ought to feel, a little uncomfortable at their somewhat rash precipitancy.

From the foreign point of view, it is quite clear that treaty revision must be placed in abeyance until the codes have been amended and made fit for their purpose, and ratification certainly should be witheld from the American and German treaties until that has satisfactorily been accomplished. England, forewarned, will be fully justified in waiting, for it would be altogether unjustifiable for her to make her subjects in this part of the world liable to obey laws which are declared in many respects to be incomprehensible.

The Governments should at once recognise the task before it; it is not treaty revision to which it should earnestly address itself but the revision of the codes, for until they have been rendered congruous, logical and satisfactory, it has no right to expect that all the Foreign Powers will be so careless of their subjects' well-being here as to expose them to the manifold difficulties and dangers of such crude and unfit legislation as competent critics declare the new codes to be.

I am,

Your's faithfully,

X. Y. Z.

July 22nd, 1889.

Duplicate

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X. Y. Z.

July 22nd, 1889.

DEPARTMENT OF STATE
AUG 31 1889
RECEIVED

DIPLOMATIC BUREAU
DIPLOMATIC BUREAU
SEP 10 1889

No. 36.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
SEP 9 1889

Legation of the United States.
at Tokio Japan, August 10. 1889.

Mr Swift:

To the Secretary of State.

Subject:

Treaty of Amity, Commerce and Navigation between Japan and Russia, signed at Tokio, August 8th 1889.

Copy to the Secretary Sept. 9. 1889. ebb

No 36. Legation of the United States,
Tokio Japan, August 20. 1889

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir,

I have the honor to inform you that it has been semi-officially announced from the Foreign Office, that a revised treaty of Amity, Commerce and Navigation was signed at this Capital on the 6th inst. between Japan and Russia.

I have not been able to obtain a copy in time for this mail, but I have a promise that one will be furnished me "within two or three days" which I will forward by the steamer following.

The Decision of the Foreign Office in a note

note to Mr Dun, in answer to my unofficial request for a copy, says that "the treaty "was signed in French and does not differ "materially from the Japanese-German "Compact".

This communication, as well as the copy, when received, will be under the same confidential understanding, as to secrecy, with the Japanese-German treaty sent in my No. 17, dated June 14. 1889.

I may mention to you that the Japanese native newspapers giving the news this morning, state that there is a difference between this treaty and the treaties between Japan and the United States and between Japan and Germany, in this, that the treaty just signed with Russia contains certain limitations upon the right of general residence and

and land ownership, not in the other treaties.

But as I have not found the Japanese vernacular press specially trust-worthy as to facts, I give this for what it is worth.

I have the honor to be

Sir,

Your obedient-servant,

John R. Swift

DEPARTMENT OF STATE
SEP 13 1889
RECEIVED.

DIPLOMATIC BUREAU
SEP 17 1889

Copied Lib.

Ack'd Sept 20/89.

No. 37.

Legation of the United States.

Tokio Japan. August 16, 1889.

Mr Swift.

To the Secretary of State.

Dep't of State 1889 1870

Subject-

Opposition to new treaties in Japan by portion of the native press on account of concession to foreigners of general right of residence and land ownership. Also danger which may possibly arise to the United States from unlimited Emigration from Japan.

No. 87. Legation of the United States,

Tokio Japan, August 16, 1889.

Hon. James G. Blaine

Secretary of State,

Washington D.C.

Sir:

In my No. 85 dated the 6th instant I had the honor to attempt to give you a notion of what is going on in Japan, with respect to treaty revision, and especially as to Japanese opinion as gathered from the newspapers. Owing to the inconvenient length to which that dispatch extended in dealing with a branch of the subject, I closed it foreseeing the necessity to resume the matter at an early day.

I have the honor to do so now.

As

As I mentioned to you in my No. 88, one of the objections made to the new treaties, is the supposed danger to Japan, likely to arise from the right they are understood to concede to foreigners, of general residence, property acquisition and ownership, throughout the country on an equal footing with natives.

It is contended by a portion of the native press as well as by some influential and leading men that, under these treaty rights, foreign capitalists will buy up and control the land, turning the people into a nation of tenants to absentee landlords.

That such a thing will occur seems to me altogether unlikely for the reasons I shall hereafter give, but the fact that the prudent and thoughtful men

men of the country are thinking of it, and are watching the interests of the Japanese people, and anxious to protect them, in the debate to their relations ~~with~~ ships, as well as to their fabrications.

That those who object to the division upon either of the grounds I have mentioned, will be strong enough to arrest the Japanese Administration now in power, in the progress of its almost completed work of carving the treaties substantially upon the lines already marked out is, in my opinion, to the last degree improbable, and I only refer to this opposition in performance of my duty to keep you advised of what is going on from time to time, in this country.

Ito

the Treaties of all the objection that is made, the treaties are steadily progressing, and, from present appearances, long before the Senate can possibly reach and act upon our pending agreement, all the other leading Powers will have signed.

That the new treaties are not likely to injure, and may greatly benefit Japan, seems to me evident; the danger to her, in any event, are not in the treaty clause permitting general immigration and residence of foreigners nor in their right to buy and own real estate.

Neither of these privileges under existing Treaties Japan will, in any degree, be taken away or abridged by to any extent my opinion to the Country

Countries. I feel very confident that the new treaties will not increase the European and American business, or population resident in Japan, and is more likely to reduce both. That in certain stages of the growth and development of a country unrestricted alien ownership of land as well as foreign immigration may be a very evil more or less serious in character, is beyond question, but Japan, of all the Countries I am acquainted with, has the least to fear from these dangers.

So far as concerns the reduction of the cost to the purchaser of yielding the highest possible result in the way of food and other productions for the support and comfort of the inhabitants

inhabitants. Japan has reached perfection. Its agriculture is not surpassed, and is hardly equaled anywhere on the face of the globe. The land can never be made to yield much more than it does now, and will probably never fetch a much higher price.

In this respect Japan is the very antipodes of the United States, and in a somewhat less sharply marked line, the antipodes of all the new undeveloped countries of North and South America, Australia and Africa.

The capitalist of Europe can, and if permitted will, while enjoying the safety and comforts of his home and Club, buy up bodies

invited to and in the United States
in order an increase of wealth development
and, as the country fills up, taxes
to himself the unearned increment
upon the land to which he has in
no respect contributed, while three
thousand citizens who have made
his improvements profitable and, in
doing so, have saved the expenditure
and population of the fields of frontier
life, and perhaps defended the country
will, in the end, have to pay him this
profit:

And as to unrestricted immigration;
the adult laborer whose habits as to
food, & raiment; and household
comforts are such as instinctively
link, have been formed by a child-
hood spent under European and

Asiatic

As all conditions, Chinese come to America and drive to deputation the citizens of the country with his higher wants and requirements. And in a country like the United States where the citizen laborer possesses a vote, and has been taught to regard himself as an important factor in the state, his resentments, whether justifiable or not, are dangerous to the peace of the community and it is the part of wise statesmanship, within reasonable limits, to have due regard for them.

Japan sends none of these races from Europe or America. I am of the opinion that in China she has a real people. That the Chinese in any capacity possess the power

of self denial as to food, raiment, comfort and pleasure along with a capacity for acquiring and holding title to money or property, equaled by no other people in the world, is beyond question. They are all the Japanese as merchants, in this all admit. And while the Celestial Chinese are probably not as strong physically as the Japanese of the same class, they are more thrifty and provident and far more likely to save what they earn. With unlimited peace, and with the highly sentimental doctrine of the unalienable right of man to expatriate himself, and go whithersoever he pleases, un-recognized force, in my opinion, it would take but a few Centuries for

for the Chinese to overrun Japan and occupy it. But I have reason to think this danger the Japanese statesmen are fully alive to, and alive to avoid. And it is with Europe and America that the new treaties are being made, and not with China, and thereby question is as to the dangers to Japan of European and American ownership of land and immigration.

As I have before intimated there is certainly no increment to be gained by speculation in the lands of Japan. That increment has already been earned, thirty thousands of years ago, by the Japanese themselves. There are here not less than 30,000,000 people living upon the

of

of islands not much larger in area than the British islands, through which runs several ranges of mountains, alpine in character and with occasional active volcanoes. Much of it is too broken to permit of cultivation. This, relatively considerable population is subsisted from the produce of the soil, largely supplemented by the sea, because of the high state to which the agricultural art has been brought. Indeed it is here rather an art than a science. All of the land is worked in this remarkable manner, unequaled elsewhere in the world, for which manure can be obtained. Forget what manure they have both the land and the sea are

industriously

dragged and searched, for the last possible article or thing, living or dead, that may be used to fertilize the soil. If they had more level land they could not raise it, unless they could find a great supply of manure.

Under this system the land must bring such prices that are no where approached in America and hardly equaled in Europe. Ordinary rice and garden fields in the neighborhood of the cities bring about Yen. 750. Equal to $375.00 an acre, in gold.

These prices paid for land to raise food for a people who subsist, on an average, upon twenty dollars a year, in my opinion puts land speculation, or even land investment, in Japan absolutely

absolutely out of the question.

There are not any habits of the people are quite outside of American or even European experience. The simplicity of the food and apparel of even wealth to the classes cannot be paralleled or compared with by our people.

The salaries paid Japanese civil servants by the Government, and which, presumably, must be deemed sufficient to procure for them the ordinary necessaries of life, show how remarkably simple are the tastes and habits of a class of people of intelligence, education and refinement of a high order for such they certainly are.

The Post Master of Tokio, the Capital

of

of the Empire, a city with four and a half population, is not more than seventy-five dollars a month, in gold.

It is with people of education and refinement who can and do live in this simple way, that our merchants, engineers, physicians, dentists, artists &c, must compete, if they wish to maintain this country and secure its wealth.

The new treaties, or at least nine of them, including our own treaty, provide reciprocally for the right of residence, which covers immigration, and general property ownership, to all persons going to the country of a treaty power.

It will be seen that the Japanese can lose nothing by the coming

57

of a capitalists to the country, for the land is divided the represented. He. They can't have anything by competition with the merchant or professional man from by the Bruguet. ... Tourist?

There can surely be no danger to the Japanese laborer, from the invading of his country by the European or American of his relative class. That is the laboring element; such as the agriculturist, mechanics and tradesmen of whom, understands why. Can live upon ten dollars a month and support a family; upon five dollars are wise from the Encroachments of the wealthy Class of Americans and Europeans, has duly needs more than the bare statement.

But.

But it may be in point to go
to the reverse of all this. What
effect may the Japanese have upon
the fortunes of the rest of the world
should they be seized with the
spirit of migration.
It has been long observed that the
Japanese, are by evidence of their
Country and when they do travel, do
so with the invariable intention of
returning.
The prosperity of intelligent Japanese
of the better class to go abroad, for
purposes of observation, and de-
velopment of education, is well known.
Such are to be found in considerable
numbers, in all European and
American cities, and especially
in the vicinity of Colleges, and
Establishments

establishments of learning. Wherever they go, their graceful bearing and courteous manners render their general favorites. But these are not laborers, and if they are occasionally found employed, it is simply to get money to establish them in further educational courses.

The common people of Japan, who compose the laboring class are singularly cheerful, good and light hearted and much given to social amusement and pleasure seeking. They are also the most independent; and the very reverse of what we call servile. Do astonishingly low wages compared with that of our

our own labouring classes, for which they are evidently to labor, would cause to cut them off from many of the = means and pleasures of a social character. But this idea would be erroneous. They lead, for poor people, a very happy life. Their taste and wants both as to food and raiment are so simple, subsisting, as they do, chiefly upon fish and rice, and wearing cotton garments, that the wages they receive, often as low as four dollars per month, is ample to support a man and his family, while entering, as a last quite artists in the purest people, many of their humble domiciles marvels of neatness.

The

The Japanese of all classes seem at the first glance to be a remarkably small race, but this will be found on examination to be more apparent than in reality. The Samurai or gentlemen class, who pride themselves for their diminutive appearance, but in length and weight of body, they are not much smaller on an average than Europeans. In activity, in physical strength, which prevails in endurance, I doubt if any nation excells them. Their feats of continuous running for long distances, drawing loads at a velocity of ten miles an hour, are wonderful. As coolies they are inferior to the best and are

Labourers

laborers they are even more certain
to excite
unlike the higher classes who go away
in search of education, the laboring
Japanese seem to be perfectly
content with their lot and if left
to themselves would probably never
dream of leaving their native land.
There is reason for believing them
to possess the perseverance and
bodily qualities and if they stay
at home it is not from timidity
or want of natural energy. There
is no question that they could be
Easily induced to go abroad for a period,
if the enterprise is agreeable to
them. There would not be the slightest
difficulty in securing, with the con-
=sent of the Government, an almost
unlimited

unlimited number of strong and courageous men to go out of the Country upon any expedition, either industrial or military. And whatever they went about they would be sure to gain a great accession of themselves.

The right of temporary residence abroad and of engaging in any kind of labor, the treaties of Japan have certainly secured in these treaties for the laborers of their Country. The only thing the laborers have to do is to step forward and utilize it.

In addition the statesmen of Japan in their negotiations have shown themselves equal to all pitted

against

against them during suspension of treaties, at least as to that portion of the treaty referring to the possibilities of what the Japanese may obtain under the new treaties is worth looking into. I have already shown that they cannot be sent, but the benefits may become considerable. The privilege of entering the Labor Market of the United States, Canada and Australia to men who can subsist upon one fourth of what it costs to feed a European is worth something.

As I have before said, this Japanese Laborer, left to himself, is contented with his lot and will remain at home in his own

6 [illegible] There is without a rival, this Empire to develop in its prosperous strength, his industry and his completeness of Latitude. But the spirit of Commerce dwells there without ambition. Vast possibilities are going to be worked upon in this age of Steam and Money Making, at a day time by the Energetic Americans & their Machine, with the cheap Coal & Steel ships, who forsake the cheap Eastern markets of the World in search of men willing to work at low wages.

If Labour in every World be already engaged in Japan to move upon America, Australia or indeed upon any Country where high wages are paid.

J. Lal.

That this may be ever in the future
is proved by the fact that it has
already been enacted, in fact is actually
going on now.

Japan has already made
her treaties intended to provide
for the going over of her people
to work as foreign emigrants
in the Sandwich Islands.

The first was with Hawaii in
1871. Art. V. and the second with
Peru in 1873. Art. VII. The final
and, probably, the real one is man-
ifestly intended to cover the Coolie
trade. It declares, That no
restrictions shall be placed by
either Government upon the
emigration of the respective
citizens or subjects of the other

reciprocally

6 "reciprocally in any lawful C[illegible]
"things may go freely from one country
"to the other &c. I know of no similar
treaty stipulation made between
civilized states.

I need hardly explain the history
or details of the Coolie traffic that
sprang into existence as the demand
made by the civilization of the
Temperate Zones for certain luxuries
and necessaries of tropical growth,
such as are furnished by, resulting
from the fact that the races who live
within and near the tropics are
unwilling or unable to do the work
necessary to this production.

It may not be out of place to
explain however, that the coolie trade
is in no sense a traffic in slaves to

go

go abroad (perhaps voluntarily and labor
for a fixed period of years, at fixed
wages, the laws of the country where
the contract is to be performed
having been previously prepared
so as to enforce by sufficient personal
penalties, including imprisonment
scourging and the like, its actual
and specific performance.

The sugar eating inhabitants
of the civilized world, have but an
imperfect notion of what their
sugar costs, as they usually
include only the amount it
costs them at money.

For a long time, China was the
great mine from which Coolies were
obtained. It is not probable that
the deportation of Contract-
Laborers was ever
authorized

authorized by the Imperial Government at Peking.

The astute statesmen who govern China are wise enough to know that the profits upon the traffic are too apt to be divided between the employer, and the Cuba contractor, and the laborer if he gets back to his own country, at all is apt to do so with a shattered body and empty purse. It is certain that the Imperial Government early set its face against the "Coolie trade" to Cuba and Peru, at the same time favoring the temporary migration of laborers to the United States and Australia, where the laws left them free to keep their contracts or evade them and make new ones at will,

thus

this selling their labor for the highest price, with a chance to cross borders with the greatest ease. But the traffic only was kept up through the aid and connivance of the local Mandarins and Tsungli Yamen, who were, of course, shared in the profits.

When Mr Burlingame, in his anxiety to divert the entire Chinese emigration to the United States, offered the Tsung li Yamen, a treaty containing only "free emigration" the Tsung li Yamen closed quickly with his terms and a quarter by Art. V. to put a stop to the coolie traffic by making it a penal offence for any body to engage in it. Whether Chin a complied with this

this pledges or not I am unable to say, but it is certain that within a few years Chinese Labor, at least in this Sugar Plantations in the Hawaiian Islands, has not been considered as desirable as before. Just when contract labor began to be shipped from Japan to that Country I am not informed, nor is the information at this time, at hand enough to say that it is thoroughly established and is carried on under an arrangement between the two Governments, the King of Hawaii being represented by his Minister Resident at this Capital, who takes a special interest in the matter, regulating the number of Laborers sent.

Low King

looking after their quality and providing for their transportation.

While writing this dispatch I see by a news item in the "Japan Mail" of Friday, the 9th inst. an announcement that another batch of the three and one grams, "new and ornate, will leave for "Yokohama on the 15th of next month "in the Japanese Mail Steam-Ship "Costa Rica, Yamamoto Maru, "which has been chartered for that "purpose."

The labours are selected from the healthiest agricultural districts of Japan and on arriving at a central depot are carefully inspected by experts and the best and strongest are taken.

The

The Japanese are quick to get the
upper hand already and, as their people
are the very lowest class of laborers their
condition, as it is with the
laborers throughout, is quite unlike
here in Japan, are quite hardly
treated. Besides the fact of appro-
priation and installed labor
generally in Japan is quite
small in proportion to the whole
number in labor, there seem to
be but few social ranks. There
is the high class, the rich, learned
and medical attendance
provided them, but not for
the poor. They are left generally,
destitute from birth and to
death all in the character of Japanese

Steamers

temporarily

temporarily of her labours, in doing so skill and ingenuity, to continue to do so, under a strong feeling of [illegible] to such emergencies, especially when placed in [illegible] is the invariable characteristic of the civilized Creature, that the exception is always in favour of the [illegible] of such exception being carried [illegible] positive law in every [illegible] Government. As a general [illegible] to be kept in view whether or not [illegible] is made or [illegible] of the [illegible] [illegible] any of the [illegible]

Diplomatic

diplomatic or Executive, either of Hawaii or Japan, should have any means of knowing, nor could it be of any consequence to those of the United States if it could inform them. If it do consider without benefit, and gives from that Philosophy, it is still possible that the same knowledge could, may be obtained to furnishing the explanation for the Oriental Labor question, that some philosophic, thinking men, could do all those for themselves, as they do now, if they chose to, without any assistance, or difficulty, to the United States, Hawaii does not require the supplying of Labor to Hawaii, there is no doubt that an

an almost unlimited number could be induced to go. The act of Congress as it now stands forbidding the employment of contract labourers is to some extent an obstacle but that is an act which might be repealed or amended. Besides that [illegible] by treaty with China, by the Senate, and [illegible] "the supreme law of the land," giving to all classes of Chinese subjects, whether skilled or unskilled, or merchants or students, their own country or an absolute footing with natives, having been put in

force

subsequent to the Acts of
Congress excluding Contract
Laborers, the treaty of February 8,
1887, Art. I, does not bring the last
expression of the sovereign will,
repeal that act, as to Japanese,
a question for the Executive and
Courts to determine. I am of the
opinion that such would be the
effect and should Japanese laborers
come to our country in contravention
to Law, the treaty having thus previously
complied, they could not be lawfully
excluded, but could on refusing
appeal to the Courts to sustain
their rights. I have not the treaty
now to this point. I respectfully
call your attention
to it & ask to be furnished with
a
there

There are now regularly sailing between Japanese and Pacific American ports, no less than nine steamships a month in each direction, with a carrying capacity that would easily enable them to transport twice as many passengers a year. Steamship companies have been very successful in the past, in stimulating immigration from Europe to America, further by taking the prospect of carrying this ground. They would do the same with China should they get about it. Labor is in great demand on the Pacific Coast if not elsewhere in America, and all healthy

Japanese

Japanese going thither, would
find a daily paid employment at
far better wages, and probably
under more agreeable circumstances
than they, paid in Shanghai; and
whether it would benefit the United
States or not, is a question upon
which I shall not offer an opinion.
But in any case there is no
necessity for a treaty, by which
the same provision, as to visiting
and land warrants, shall be placed upon a footing with
vessels. The act is the same whether
coastwise trade, whether foreign, it
is actually intended by it as it
would, to especially exempt the
Japanese from the operation of
our anti Coolie contract labor

The

The laws of the United States now welcome all laborers (except Chinese) including all men who come without [illegible] to labor [illegible] the light of all the wisdom of the great writers on public and natural laws, and declare, that a man owes no duty or allegiance to his country that he may not violate in the pursuit of happiness, that he may change at will his country with the hope of bettering [illegible] and go abroad, [illegible] no matter what may be the conditions of the foreign land he seeks to enter as to [illegible] disease, whether he is needed or not, it is his birthright and he cannot lawfully be kept out of it, that the

the right of Expatriation is there
an alienable right of all men and
essential to the pursuit of happiness.

Such then is the law and without treaty
stipulations; there is nothing to prevent the
entire 30,000,000 Japanese with their whole
at their head, should they so choose the
change would be due to their mental
happiness; from residing in the
United States singly or in a body.
Then why confer the right by
treaty upon any nation. To do
so may lead to serious misunderstanding
by such a treaty Japan and America should
open up and Congress should
for [illegible] to regulate, limit or suspend it
it would be most objectionable

to

to be met, as we were in a recent
instance, with an improvident and
unnecessary treaty, standing in the
way and failing to get it modified,
be obliged to break the public faith
by repudiating or abrogating it?
In a country like ours, where the citizen
has all participates so potently in the
government, this practical threat-
ening of a conflicting class of
cheap labor, or any other unjust
thing, may be in addition to the
evil in itself, very likely to create
some measure of sympathy and discontent-
with the same class in the United States
that may do more in going by disturbing
the public peace, and the confidence
on the general security than all
pecuniary profits of such cheap
labor

Labor could compensate for it
under existing laws of Congress, without
any treaty. We are liable at any time
to have our ships or ship labor
of this kind taken from the
Pacific Coast. There is nothing
to prevent and we may be sure,
that the present agitation of the public
mind on this labor question in that
part of the country, even to a certain
extent controls the political questions, that
would at once step in to the election.
Our ports would be closed to enterprise,
and the attempt at water privileges
would almost certainly be made
that is dependent upon Congressional
action, it being to the interest
to make conventions between

between civilized States, to adhere to the old and well known treaty of Amity, Commerce and Navigation, which provides for reciprocal privileges in favor of Ambassadors, Consuls, Merchants and their Ships and Cargoes, leaving other matters relating to the Country to the Municipal Laws and Regulations in force from time to time and the Law of Nations.

If States are civilized, they will themselves in their own Constitutions and Laws, without Treaty Stipulations, extend to each other reciprocal number of well behaved Citizens and Foreigners, hospitality and the benefits of just Laws, such as their own citizens, live under, and

no

No more should be asked.

If a nation is so low in the scale of enlightenment, as to murder, or to maltreat shipwrecked unfortunates, or to refuse ordinary intercourse with travellers or merchants, or deny them temporary hospitality while living, or sepulture when dead, or to desecrate tombs, or persecute men because of their religion, or torture prisoners or barbarously kill others of a savage, status with them should be mistaken and directed towards producing them from inflicting such atrocities. But to stipulate away the right to make war upon them as an inducement to savages to abandon uncivilized customs is entirely

going

going too far.

The Constitution of the United States secures to all individuals within its territories, the right of personal liberty and trial by jury, and we should like to see other nations adopt these principles of Magna Charta.

But if for the sake of inducing a despotic State to abandon irregular judicial methods, or secret trials in turning a deaf ear, we should stipulate away the right to alter or amend as occasion might require our own Correctional system, we should be doing certainly an undignified and, probably, an inhuman thing.

The treaty of Commodore Perry as well

well as that of Mr. Townsend Harris with Japan, may be regarded as models in this respect. They secure many treaty privileges, that so far as the treaties go, seem to be non-reciprocal. But every right of importance conceded to Americans visiting Japan and much besides, by our municipal laws, were then and still are, a standing grant to Japanese in common with all mankind visiting our country.

On the contrary, an inclination of the harsh and imprudent manner in which treaty pledges have been flung about at Yaphaz and in our diplomacy, is to be found in our treaty with

with Corea.

It is true that Corea is too small both as to population and to commerce as well as too backward and disorderly, to be likely to benefit or injure outside nations to any serious extent: but the treaty containing the principle I refer to, for what the reason only, I cite it, as an instance in point. In our anxiety, either for diplomatic or trade honors, we stipulated in that treaty, that in consideration that our citizens may be allowed to reside in certain cities situated within a limited number of open ports of Corea, and there lease land and trade and pursue their callings and avocations, that the

the Coreans, may reside and purchase land <u>not</u> and rent and carry on their callings and avocations, in all parts of the United States absolutely without restriction. The generous reciprocity by which a nation possessing 3,500,000 square miles of rich territory with forests and mines and fisheries of prodigious value, throws it all open to the unrestricted enterprise of a nation of 5,000,000 people in return for the privilege of leasing a few business lots in a restricted quarter of a treaty port in Corea, or in lieu for any Equivalent the Coreans might be able to offer, if not reckless improvident is certainly tendiously

Magnanimous.

In a gratuitous [illegible]

But the Plenipotentiary who negotiated this treaty, seeing that inasmuch as such law as offering to the Creeks, they already were possessed of, under the 14th Amendment to the Constitution, and Sec. 1979 of the Revised Statutes, it followed that he was cheating them, by selling them what was already theirs before, and getting back something of value for it. The question of the morality or immorality of this advantage taken of Creek ignorance may safely be left to the Creeks themselves, after they shall have learned the facts. If they are content we need not complain.

But certain it is that the Creeks

did

did, before the treaty was made,
possess and still possesses, these
very rights and privileges, independent
of the treaty, the only difference
being, that without the treaty,
Congress could by merely changing
and unlawfully breaking the public faith
our laws, have taken them away
from all who had not already
availed themselves of their rights,
by coming and settling and buying
lands. But that all such titles
are imperfect and revocable, seems
to me to be established
by Congress in the very clause
to make Rules and Regulations
the common property of the world,
to throw open its waste and unsettled
created wealth for the entire human
race to scramble for, it has the
power

power to do so, but such legislation
should only be tolerated
[illegible] in the United States
should be the most important
in this respect. And I am
sorry to say it will not be.
The world is still overpopulated.
The natural check against
at least in part on the immigration
of the next fifty years. The
coming half century will be the
most important period by far
in the history of America.
[illegible] prevent
in part the natural [illegible]
[illegible] if possible
[illegible] people will be sent
at least as to its future and Composition, physical and moral, upon

which

which so much depends.

The other reasons may be found in the peculiar nature of our Constitution, and the difficulty of changing treaties when they are made. We must consider that treaties, like all other matters of policy, are the result of the exercise of the treaty-making power, and that they include a compact, usually effected by the action of a single branch of the United States, namely, the Executive, requiring the concurrence of a two-thirds majority in the Senate, when made, or "their supreme law of the land" when ratified by the proper authority. It is attended in this way, difficult and slow of change, and circumstances are often likely to arise, when the parties will not have

patience

patience to wait the slow process of negotiating a new treaty, but will prefer to break the old.

If you should find that I have exceeded my duty in venturing to express my own views and opinions on certain matters connected with our relations with this and other Oriental States, I trust you will make allowance for the deep interest I take in these questions and overlook the error.

I have the honor to be
Sir
Your obedient servant.
John T. Swift

SEP 13 1889
RECEIVED.

DIPLOMATIC BUREA
SEP 17 1889

Rec'd Sept 1889.

No. 38.

Legation of the United States.

Tokio Japan, August 19, 1889.

Mr Swift.

To the Secretary of State.

Copy to Ld Oct 1 89

Subject:

The Japanese - Russian Treaty of Amity, Commerce and Navigation, dated July 27th, 1889 and signed at Tokio Japan August 8th, 1889.

No. 38. Legation of the United States,

Tokio Japan, August 19. 1889.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir:

I have the honor to transmit to you, herewith, a paper purporting to be, and which I am semi-officially informed is, a copy of the new treaty dated the 27th. of July 1889, being the same treaty, which I informed you in my No. 36, was signed at this Capital on the 8th. inst. between Count Okuma and Mr. Schevitch, respectively representing the Emperors of Japan and Russia.

As in the case of the copy of the treaty between

between Japan and Germany, which I had the honor to send you in a former despatch, my No. 17, dated June 14, 1889, I have promised that this shall be considered as confidentially communicated. I do not understand, however, that this privacy is intended to extend to, or prevent the documents being laid before, the Senate or any other office or agent of my Government having any duty to discharge with respect to the diplomatic relations between the two Countries. In fact the copies are furnished in order that they may be considered in connection with the entire subject and open to all participating in the deliberations.

In this connection, I deem it not out of place to call your attention to

because of the differences between the treaty just made by Russia and Japan and dispatches of February 20, 1889, and dispatches in your hands awaiting further Executive action, the former dispatches and especially Nos. 36 and No. 37 I have had the honor to point out to you the concessions reciprocally made in the treaty last above named, especially those contained in Art. I. thereof, namely, the right then granted reciprocally to the citizens and subjects of the United States and Japan, to enter, travel and reside in any part of the territory of the other, and there, as to all rights of residence and as to the possession, succession to and disposal of real estate, to enjoy the same rights

and

and privileges as native citizens or subjects.

My reasons for regarding it as proper and impolitic, in the present condition of development in the United States, to extend by treaty to foreigners such privileges as well as for considering their concession in this instance as altogether gratuitous and unnecessary for the purpose of maintaining good relations with Japan, or for any other sufficient reason, I have already, in former dispatches and, especially, in my No. 87. going by this overland mail, set forth at considerable length.

The achievement of Mr Schenck's, in securing for his Countrymen in Japan, as, in my opinion, he has done in this treaty, all the privileges and rights of residence and property ownership, possessed

by

his native Japanese without hampering his own Government upon matters of such serious consequence as that of permitting alien ownership of real estate in Russia when compared with what we have given and received in return for it in our treaty of February 20th, if it was difficult of accomplishment may be considered a decided diplomatic victory and if it was not difficult, but to be had for the asking, which I think was the fact, was an act of egregious folly and political weakness.

It is not likely that Russia, owing to the remoteness from Japan of its vast Asiatic possessions, taken with the density of population and consequent severity of the conditions of life in those parts and the harshness of its

Climate

climate every where, offers any sufficient inducement to foreign immigration in force, for which reason Mr. Schuitch was probably judicious in passing over that branch of the negotiation with comparative indifference.

But the dominions of the Czar have unoccupied lands and undeveloped mines and vast fields which his policy has been to keep for his people. Russia does not, as I understand it, generally permit alien acquisition of land; if there are exceptions, the exceptions are limited with care.

Mr. Schuitch, it will be seen by an examination of the treaty, has been adroit enough to secure to the Russians the right to acquire and dispose of real estate in Japan, without giving

the

the Japanese the same right in Russia. How this is done I will explain, referring to the copy of the treaty accompanying this dispatch. The clause in the treaty draft offered originally by the Japanese plenipotentiaries to the Treaty Powers as the basis of the new treaties, shown (in French) in the original printed text of the paper I send you herewith, This without material alteration was accepted by Mr Hubbard and, in English, stands as the text of our treaty. The changes in red ink, in the French text sent herewith, show what modifications were demanded and obtained by Mr Schiatch for Russia. The clauses to which we have agreed and which give Japanese the same rights as to land ownership etc, in

America

America with native citizens, is to be found in the second paragraph or unnumbered subdivision of Art. I, and on the copy of the Russian treaty, sent herewith, is marked out by red ink lines, as eliminated, while a substitute, also in red ink, is appended by a written slip of paper backed to the margin, in these words:—

"Les Japonais en Russie et les russes au "Japon auront pleine liberté, en observant les "règles et formalités en vigueur, d'acquérir, "de posséder, de louer et d'aliéner toutes espèces "de propriétés sur les territoires et possessions res- "pectifs, en tant que les lois de pays le "permettent ou le permettront aux sujets "ou citoyens de toute autre nation étrangère."

The substitution struck out at the instance of Mr Schenck, but left standing

standing in over own treaty of February 20th
1871 have been intended as a new, though
rather, slipshod, method of reciprocally evincing or
disclaiming for each signatory Power (signatory power)
the ancient droit d'aubaine and droit d'extraction
(jus detractus). But if such was the
intent and no more, it is obvious proof that
in diplomacy as in law it is always wise
to adhere to ancient and known forms
and precedents. For taken with the right
to enter and reside in the Country, covered
in the first part of the same article, the
whole as left in our treaty goes much
further than a waiver of the duties above
named, and really puts the alien residents
respectively of either Country, vis a vis
with natives, with respect to almost every-
thing, except, perhaps, the elective franchise
and the right to hold office.

The

The effect of that part of the new clause which I have set forth as you will readily perceive is to place the subjects of each [redacted] Powers [Japan and Russia] as to property rights of every kind in the Country of the other Power on the same and subject to the municipal laws and ordinances of the Country in which they are.

Now as Japan has already agreed by several different treaties, that certain foreigners in Japan, Mexicans, Americans and Germans, shall have all the rights of natives as to property ownership, real and personal, and is about to do the same with England, France and, in fact, all the rest, it follows that Russians in Japan will enjoy the same rights, that is to say the

rights

rights of foreigners which are thus identical with the rights of native Japanese. They will therefore enjoy the rights of natives.

But as Russia has not followed that policy at home, Japanese will get in Russia the same rights there as other foreigners and no more and so cannot hold real estate beyond the lease and trading privileges which they may take as merchants for the purpose of trade and commerce. Nor does it include the right or privilege of free immigration implied by the clause allowing full right to enter, travel and reside, is as secure to Japanese in Russia as it is to Russians in Japan, under this treaty as a dexterity manipulated by Mr Lehmitch. I do not use the word

a droit.

adroit in the sense that the Russian Minister has out-witted the Japanese Plenipotentiaries for I doubt if they are looking for an outlet for their people in Russia. It offers no inducements to them. I should, rather, expect than to wish to secure for their adventurous spirits the free run of a new and pleasant contiguous and easily reached country like our own, lying in the path of travel and full of tempting opportunities.

But let that be as it may, I think, although I confess not clear, that the Russians will construe the extra clause in the red ink written slip tacked to the margin at the bottom of Art. III. as reserving power to Russia to deal with pretty much all the questions

questions pending out of any excessive use of any of the treaty clauses by Japanese as within Russian territory without affecting the treaty itself.

It reads as follows:

"Il est entendu, toutefois, que les stipulations contenues dans cet article ainsi que dans les articles du présent traité ne dérogent en rien aux lois ordonnances et réglements respectivement en matière de commerce, d'industrie et de police en vigueur dans chacun des deux pays et applicables aux sujets des états généraux."

Like other treaties Japan has in other treaties given the fullest rights in this respect to other nations and in continuing to do so the cannot stop foreigners coming without breaking all her treaties, and so long as she

Sito

Into any case she must be considered
come to, she must do so under the
separate clause as well as under the
favored Nation. That, in this connection,
I call your attention to the change in
the favored nation clause made from
over ours of February 20th 1867. Not only
in the treaty with Russia but also in
the one with Germany of June 11th,
a copy of which I had the honor to
send you some time since.

It would seem from this that Japan
had to abandon the conclusion so
long made as to the construction
of the favored nation clause and
had gone back to the old theory.

I also call your attention to the
circumstance that the change from
the original treaty draft (which bore

treaty

treaty of February 20th 1882, adopted in July, made in the treaty with Russia as to the contents of our Art: XVI, which change consists of the elimination of the entire original matter of that article and the substitution of new matter in its stead is identical in the Russian treaty with that of the German treaty of June 11th 1869, showing the Russian has been copied from the German.

Whether it is thus rendered more favorable to the Germans and Russians than ours is to Americans, I have not tried to satisfy myself, but presumably the Plenipotentiaries representing those States were of that opinion.

I have the honor to be

Sir,

Your obedient servant.

John T. Swift

Enclosure

Enclosure: Japanese Russian Treaty of Amity Commerce and Navigation

CONFIDENTIEL.

TRAITÉ D'AMITIÉ, DE COMMERCE ET DE NAVIGATION.

Sa Majesté l'Empereur du Japon — Le Comte Okuma Shigenobu, Junii, décoré de l'Ordre Impérial du Soleil-Levant de la 1ère classe, Chevalier des Ordres de l'Aigle Blanc et de Ste Anne de la 1ère classe de Russie etc etc, Son Ministre d'Etat des Affaires Etrangères,

Et Sa Majesté l'Empereur de toutes les Russies — Son Conseiller d'Etat actuel et Chambellan Dmitri Schévitch, Chevalier des Ordres Impériaux de St Stanislas de la 1ère classe et de Ste Anne de la 2ème classe, Chevalier de l'Ordre du Soleil-Levant de la 1ère classe du Japon etc etc, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté l'Empereur du Japon,

Article II

(Les japonais en Russie et les russes au Japon auront pleine liberté, en observant les règles et formalités en vigueur, d'acquérir, de posséder, de louer et d'aliéner toutes espèces de propriétés sur les territoires et possessions respectifs, en tant que les lois du pays le permettent ou le permettront aux sujets ou citoyens de toute autre nation étrangère.)

Ils pourront en faire l'acquisition et en disposer par vente, donation, échange, mariage, testament ou de quelque autre manière que ce soit et retirer intégralement leurs capitaux dans les mêmes conditions qui sont ou seront du pays établies à l'égard des sujets ou citoyens de toute autre nation étrangère sans être assujettis à des taxes, impôts ou charges, sous quelque dénomination que ce soit autres ou plus élevés que ceux qui sont ou seront établis pour les nationaux.

Ils pourront de même exporter librement le produit de la vente de leur propriété et leurs biens en général sans être assujettis à payer comme étrangers, à raison de l'exportation, des droits autres ou plus élevés que ceux que les nationaux auraient à acquitter en pareille circonstance.

~~TRAITÉ D'AMITIÉ, DE COMMERCE ET DE LA NAVIGATION.~~

~~PRÉAMBULE.~~

Sa Majesté l'Empereur de toutes les Russies

Sa Majesté l'Empereur du Japon et ....., animés d'un égal désir de maintenir les bons rapports déjà heureusement établis entre Eux, en étendant et en augmentant les relations entre leurs Etats respectifs, et persuadés que ce but ne saurait être mieux atteint que par la révision des traités jusqu'ici en vigueur entre les deux Pays, ont résolu de procéder à cette révision sur les bases de l'équité et de l'intérêt mutuel, et ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

~~Sa Majesté l'Empereur du Japon~~ .....

~~Et~~ .....

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté et conclu les articles suivants:

ARTICLE I.

en se conformant aux lois du pays,

Les sujets ~~ou citoyens~~ de chacune des deux Hautes Parties Contractantes auront toute liberté, d'entrer, de voyager ou de résider en un lieu quelconque du territoire de l'autre, et y jouiront d'une pleine et entière protection pour leurs personnes et leurs propriétés. Ils auront un accès libre et facile aux tribunaux pour la poursuite ou la défense de leurs droits; ils auront, sur le même pied que les sujets du Pays, la faculté de choisir et d'employer des avoués, des avocats et des mandataires afin de poursuivre et de défendre leurs droits devant ces tribunaux. Et quant aux autres matières qui se rapportent à l'administration de la justice, ils jouiront de tous les droits et priviléges dont jouissent les sujets du Pays.

~~Pour tout ce qui concerne le droit de résidence, la possession des immeubles, des biens et effets mobiliers de quelque espèce que ce soit, la transmission par succession testamentaire ou autre des meubles ou immeubles, et le droit de disposer des biens de toutes sortes de quelque manière que ce soit, les sujets ou citoyens de chacune des Parties Contractantes jouiront, dans le territoire de l'autre, des mêmes priviléges, libertés et droits que les sujets ou citoyens du Pays et ne seront soumis, sous ce rapport, à aucuns impôt ou charge plus élevés que ceux payés par les nationaux.~~

Les sujets ~~ou citoyens~~ de chacune des Parties Contractantes jouiront, dans le territoire de l'autre, d'une liberté entière de conscience; ils pourront, en se conformant aux lois et aux règlements, se livrer à l'exercice public ou privé de leur culte; ils jouiront aussi du droit d'inhumer leurs nationaux respectifs suivant leurs coutumes religieuses, dans des lieux convenables et appropriés qui seront établis et entretenus à cet effet.

Ils ne seront contraints, sous aucun prétexte, de payer des charges ou taxes autres ou plus élevées que celles qui sont ou seront imposées aux sujets ~~ou citoyens~~ du Pays.

Les sujets ~~ou citoyens~~ de chacune des Parties Contractantes qui résident dans les territoires de l'autre ne seront astreints à aucun service militaire obligatoire soit dans l'armée, la marine, la garde nationale, soit dans la milice; ils seront exempts de toutes contributions imposées en lieu et place du service personnel, et de tous emprunts forcés ou de toutes contraintes ou contributions militaires. Sont toutefois exceptés les obligations et les charges concernant la propriété ou la location des terrains et autres propriétés foncières, auxquels tous les sujets ~~ou citoyens~~ du Pays sont assujettis.

ARTICLE III.

Il y aura, entre les territoires des deux Hautes Parties Contractantes, entière liberté de commerce et de navigation.

Les sujets ~~ou citoyens~~ de chacune des Parties Contractantes pourront exercer, dans les territoires de l'autre, le commerce en gros ou en détail de tous produits, objets fabriqués et marchandises de commerce licite, soit en personne, soit par leurs agents, tant seuls qu'en société avec des étrangers ou des sujets du Pays, le tout en se conformant aux lois et règlements de police et de douane du Pays, comme les nationaux eux-mêmes.

* Il est entendu, toutefois, que les stipulations contenues dans cet article ainsi que dans l'article I du présent Traité ne dérogent en rien aux lois, ordonnances et règlements spéciaux en matière de commerce, d'industrie et de police, en vigueur dans chacun des deux pays et applicables à tous les étrangers en général.)

Ils auront pleine liberté de se rendre avec leurs navires et leurs cargaisons dans tous les lieux ports et cours d'eau des territoires de l'autre qui sont ou pourront être ouverts au commerce ~~étranger~~ extérieur; et ils jouiront respectivement, pour tout ce qui concerne l'industrie, les manufactures, le commerce et la navigation, du même traitement que les sujets ~~ou citoyens~~ du Pays, sans avoir à payer aucuns impôt, taxe ou droit de quelque nature ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des fonctionnaires publics, des particuliers, des corporations ou établissements quelconques, autres ou plus élevés que ceux imposés aux sujets ~~ou citoyens~~ du Pays. *

~~Article III.~~

~~Les sujets ou citoyens de chacune des Parties Contractantes jouiront, dans les territoires de l'autre, de la même protection que les sujets ou citoyens du Pays en ce qui concerne les brevets d'invention, les marques de fabrique et de commerce et les dessins, moyennant l'accomplissement des formalités prescrites par la loi.~~

~~Cette protection sera accordée réciproquement par chacune des Parties Contractantes aux sujets ou citoyens de l'autre, dans la même mesure et aussi longtemps qu'elle leur sera assurée dans leur propre Pays, pourvu qu'en tout cas cette protection ne puisse excéder les délais déterminés par les lois du Pays qui accorderont cette protection.~~

Article IV.

Il ne sera imposé à l'importation dans les territoires de Sa Majesté l'Empereur du Japon d'articles produits ou fabriqués dans les territoires de ...., de quelque endroit qu'ils viennent, et à l'importation dans les territoires de ..... d'articles produits ou fabriqués dans les territoires de Sa Majesté l'Empereur du Japon, de quelque endroit qu'ils viennent, aucuns droits autres ou plus élevés que ceux imposés sur les articles similaires produits ou fabriqués dans tout autre pays étranger. De même, aucune prohibition ne sera maintenue ou imposée sur l'importation dans les territoires de l'une des Parties Contractantes d'un article quelconque produit ou fabriqué dans les territoires de l'autre, de quelque endroit qu'il vienne, à moins que cette prohibition ne soit également appliquée à l'importation des articles similaires produits ou fabriqués dans tous les autres pays. Cette dernière disposition n'est pas applicable aux prohibitions sanitaires et autres provenant de la nécessité de protéger la santé publique, ainsi que la conservation du bétail et des plantes utiles à l'agriculture.

Article VI.

Ils est convenu entre les Hautes Parties Contractantes qu'au lieu des droits d'importation levés et perçus jusqu'ici, les droits spécifiés dans le tarif ci-annexé pourront être levés par le Gouvernement Japonais sur tous les articles de production ou de fabrication ..... à leur importation au Japon. Le Gouvernement Japonais se réserve, d'ailleurs, le droit de restreindre ou de prohiber temporairement l'importation de tout article qui pourrait nuire à la santé, aux biens, ~~aux mœurs ou à la sécurité publique ou les mettre en péril.~~ ©

Il est entendu entre les Hautes Parties Contractantes que le Gouvernement Japonais, au cas où il imposerait des droits intérieurs, ou les augmenterait, sur le saké, le shoyu, le mirin ou le tabac, pourra imposer un droit compensateur sur les mêmes articles importés au Japon, pourvu que ce droit compensateur, augmenté des droits de douane, n'excède pas la taxe ou les droits intérieurs.

Les droits d'importation *ad valorem* payables au Japon seront calculés d'après le coût des marchandises au lieu d'achat, de production ou de fabrication, en y adjoutant les frais d'assurance et de transport du lieu où elles ont été achetées, produites ou fabriquées, jusqu'au port de déchargement, ainsi que les frais de commission s'il en existe.

La somme ainsi obtenue sera considérée comme la valeur des marchandises sur laquelle seront payés les droits prescrits dans le tarif.

© ou à la sécurité publique et dans les circonstances exceptionnelles l'importation des munitions de guerre.

Article IV.

Les sujets japonais en Russie et les sujets russes au Japon
iront en ce qui concerne les marques de marchandise ou de leur emball
et les marques de fabrique ou de commerce, de la même protection que
nationaux.

Les marchandises de production ou de fabrication étrangère réimportées au Japon après en avoir été exportées, payeront les droits d'importation en conformité avec le tarif, alors même que les droits auraient été payés sur ces marchandises au moment de leur première importation.

Les marchandises de production ou de fabrication japonaise qui seront rapportées au Japon de pays étrangers, payeront un droit *ad valorem* de cinq pour cent.

ARTICLE VII.

Il ne sera imposé à l'exportation d'un article quelconque des territoires de l'une des Parties Contractantes à destination des territoires de l'autre, aucuns droit ou taxe autres ou plus élevés que ceux qui sont ou seront payables à l'exportation des articles similaires à destination d'un autre pays étranger, quel qu'il soit ; de même, aucune prohibition ne sera imposée à l'exportation d'aucun article des territoires de l'une des Parties Contractantes à destination des territoires de l'autre, sans que cette prohibition soit également étendue à l'exportation des articles similaires à destination de tous les autres pays sans exception.

ARTICLE VIII.

Les sujets ou citoyens de chacune des Parties Contractantes jouiront, dans les territoires de l'autre, relativement à l'exemption des droits de transit et à tout ce qui concerne le magasinage, les primes, les facilités et les *drawbacks*, de tous les avantages qui sont ou seront accordés à la nation la plus favorisée.

Il est, d'ailleurs, entendu que toutes marchandises importées au Japon par des sujets ~~ou citoyens~~ ....., sur lesquelles les droits auront été payés conformément au tarif annexé au présent Traité, pourront être expédiées, franches de droits, dans un port japonais quelconque ; et, lorsqu'elles seront transportées à l'intérieur, elles ne seront soumises, à moins qu'il ne soit prévu autrement dans ce Traité, à aucun droit de transit, taxe ou accise additionnels, dans un endroit quelconque de l'Empire du Japon.

ARTICLE ~~VIII.~~ IX

Lorsque des marchandises de production ou de fabrication étrangère qui ont été retirées de la garde et du contrôle de la Douane, seront, dans les deux années de la date de leur importation, exportées du Japon, elles pourront passer par la Douane franches de droits d'exportation, et l'importateur aura le droit, en outre, de recevoir un certificat de *drawback* pour le montant des droits d'importation payés sur ces marchandises, pourvu que tous les frais dûs à la Douane pour lesdites marchandises aient été acquittés ; qu'elles soient exportées de bonne foi à destination d'un pays étranger, et qu'elles le soient, de plus, dans les barriques, caisses, coffres, malles ou emballages dans lesquels elles ont été premièrement importées, sans avoir été ouvertes ou déballées, sauf par la Douane ou sur son autorisation ; que la demande d'un *drawback* de droits soit accompagnée du permis d'importation originaire, lequel sera retenu par les autorités de la Douane, et que les lites marchandises soient, au moment de leur exportation, soumises à tel examen et à telle inspection que les autorités de la Douane estimeront nécessaires pour établir leur identité avec les marchandises décrites dans le permis d'importation. Ces certificats de *drawback* pourront être ou convertis en espèces sur demande, ou acceptés, en tout temps, par les autorités de la Douane pour le payement des droits.

ARTICLE IX.

Les mêmes droits seront payés à l'importation dans les territoires de l'une ou de l'autre des Hautes Parties Contractantes sur tout article qui peut ou pourra y être légalement importé par les nationaux ou par les étrangers, que cette importation ait lieu par des navires japonais ou par des navires russes

Les mêmes droits seront payés à l'exportation des territoires de l'une ou de l'autre des Hautes Parties Contractantes sur tout article qui peut ou pourra en être légalement exporté par les nationaux ou par les étrangers, que cette exportation ait lieu par des navires japonais ou par des navires russes.....

ARTICLE XI

Le cabotage dans les territoires de l'une ou de l'autre des Hautes Parties Contractantes est excepté des dispositions du présent Traité ; il sera régi par les lois ..... ~~et~~ japonaises et russes respectivement. Il est entendu, toutefois, que les sujets ~~ou~~ citoyens japonais en Russie ~~au Japon~~ et les sujets ~~japonais en~~ russes au Japon jouiront, sous ce rapport, des droits qui sont ou seront accordés par lesdites lois aux sujets ou citoyens de tout autre Pays.

Tout navire japonais chargé à l'étranger d'une cargaison destinée à deux ou plusieurs ports de ....Russie...., et tout navire ...russe..... chargé à l'étranger d'une cargaison destinée à deux ou plusieurs ports du Japon, pourra décharger une partie de sa cargaison dans un port et continuer son voyage pour l'autre ou les autres ports de destination où le commerce ~~étranger~~ extérieur est autorisé, dans le but d'y décharger le reste de sa cargaison d'origine, en se conformant toujours aux lois et aux règlements de douane des deux Pays.

Toutefois, le Gouvernement Impérial Japonais fait, en outre, la concession suivante, à savoir que les navires ...russes..... pourront transporter des cargaisons entre les ports ci-après : Yokohama, Kobé et Nagasaki.

Hiogo, Hakodate

ARTICLE XII

Le Gouvernement Impérial Japonais s'engage, pour une période de dix années à partir de la mise en vigueur du présent Traité, à autoriser les sujets japonais à affréter des navires appartenant à des sujets ~~ou citoyens~~ ...russes....., pour les employer au cabotage sur les côtes du Japon, aux conditions suivantes :

Aucun navire étranger ne pourra faire le cabotage au Japon, aux termes des dispositions du présent Article, à moins qu'il ne soit affrété de bonne foi et en totalité par des sujets japonais exclusivement.

Tout sujet japonais désirant affréter un navire étranger s'adressera par écrit aux autorités douanières du port d'affrétement, en énonçant dans sa demande tous les détails qu'il lui sera possible de fournir relativement au navire, ainsi que le nom et la nationalité du capitaine. Il y joindra le projet de la charte-partie, lequel devra être signé par le propriétaire, le capitaine ou l'agent du navire ; ce projet énoncera l'objet, la durée et le montant du prix de l'affrétement. Les autorités douanières, lorsqu'elles auront reçu une pareille demande, délivreront une autorisation appelée " autorisation d'affrétement," contre le payement d'un droit de cinquante yen.

La durée du contrat d'affrétement d'un navire étranger ne dépassera pas douze mois. A l'expiration de l'affrétement, l'autorisation sera rendue aux autorités douanières du port d'affrétement. Toutefois, l'affrétement pourra être renouvelé et une nouvelle autorisation d'affrétement obtenue contre un autre versement du droit de cinquante yen et sur une demande faite de la même manière que pour un premier affrétement.

En outre de la taxe stipulée ci-dessus, les navires étrangers affrétés payeront, dès la première sortie en vertu de la charte-partie, des droits de tonnage et de phares à raison de deux sen par tonneau et par mois ou fraction de mois pendant la durée de l'affrétement.

Tout navire étranger affrété portera un pavillon distinct, pour indiquer qu'il est affrété par un sujet japonais.

Les navires étrangers affrétés seront, de la même manière que les navires japonais, obligés de transporter les dépêches de la poste, lorsqu'ils en seront requis par les autorités postales du Japon. Mais ils ne pourront, dans aucun cas, transporter les dépêches sans la permission desdites autorités.

Article XIV

Seront respectivement considérés comme navires japonais ou russes ceux qui naviguant sous le pavillon de l'un des deux Etats, seront possédés et enregistrés selon les lois du pays, et munis de titres et patentes régulièrement délivrés par les autorités compétentes.

Les navires étrangers affrétés ne pourront être employés qu'au cabotage. Lorsque l'un d'eux ira à l'étranger, l'autorisation d'affrétement devra être rendue aux autorités douanières du port de sortie et toutes les marchandises qui y auraient été chargées à n'importe quel port pendant qu'il était affrété, seront soumises aux droits dus à l'exportation.

Les navires étrangers affrétés seront soumis aux Règlements Commerciaux en tant que ces règlements seront applicables. Leur autorisation d'affrétement sera, pendant toute la durée de leur séjour dans un port, déposée auprès des autorités douanières.

Article XIII

Tout vaisseau de guerre ou navire de commerce de l'une ou de l'autre des Parties Contractantes, qui serait forcé par un mauvais temps ou par suite d'un autre danger, de s'abriter dans un port de l'autre, aura la liberté de s'y faire réparer, de s'y procurer toutes les provisions nécessaires, et de reprendre la mer, sans payer d'autres frais que ceux qui devraient être payés par les navires nationaux. Dans le cas, cependant, où le capitaine d'un navire de commerce se trouverait dans la nécessité de vendre une partie de sa cargaison pour payer les frais, il serait obligé de se conformer aux règlements et tarifs du lieu où il aurait relâché.

Si un vaisseau de guerre ou un navire de commerce de l'une des Parties Contractantes a échoué ou naufragé sur les côtes de l'autre, les autorités locales en informeront le Consul-Général, le Consul, le Vice-Consul ou l'Agent Consulaire du lieu de l'accident ; et, s'il n'y a pas de ces officiers consulaires, elles en informeront le Consul-Général, le Consul, le Vice-Consul, ou l'Agent Consulaire du district le plus voisin.

Toutes les opérations relatives au sauvetage des navires ...japonais.. naufragés ou échoués dans les eaux territoriales de l'Empire ~~du Japon~~ de Russie auront lieu conformément aux lois ~~du Japon~~ russes ; et, réciproquement, toutes les mesures de sauvetage relatives aux navires ~~japonais~~ russes naufragés ou échoués dans les eaux territoriales de l'Empire du Japon auront lieu conformément aux lois japonaises.

Tous navires ou vaisseaux ainsi échoués ou naufragés, tous débris et accessoires, toutes fournitures leur appartenant, et tous effets et marchandises sauvées desdits navires, y compris ceux qui auraient été jetés à la mer ou les produits desdits objets, s'ils sont vendus, ainsi que tous papiers trouvés à bord de ces navires échoués ou naufragés, seront remis aux propriétaires ou à leurs agents quand ils les réclameront. Dans le cas où ces propriétaires ou agents ne se trouveraient pas sur les lieux, lesdits produits ou objets seront remis aux Consuls-Généraux, Consuls, Vice-Consuls, ou Agents Consulaires respectifs, sur leur réclamation, dans le délai fixé par les lois du Pays, et ces Officiers consulaires, propriétaires ou agents payeront seulement les dépenses occasionnées pour la conservation desdits objets, ensemble les frais de sauvetage ou autres dépenses auxquelles seraient soumis, en cas de naufrage, les navires nationaux.

Les effets et marchandises sauvés du naufrage seront exempts de tous droits de douane, à moins qu'ils n'entrent dans la consommation intérieure, auquel cas ils payeront les droits ordinaires.

Dans le cas où un navire appartenant aux sujets ~~ou citoyens d'une~~ de l'une des Parties Contractantes ferait naufrage ou échouerait sur le territoire de l'autre, les Consuls-Généraux, Consuls, Vice-Consuls et Agents Consulaires respectifs seront autorisés, en l'absence de leurs propriétaires, capitaines, ou autres agents de leurs propriétaires, à prêter leur appui officiel pour procurer toute l'assistance nécessaire aux sujets respectifs de chaque Etat. Il en sera de même si les propriétaires, capitaines ou agents sont présents, mais demandent une telle assistance.

Article ~~XIII~~ XV

Si un marin déserte d'un navire de guerre ou de commerce appartenant à l'une des deux Parties Contractantes sur le territoire de l'autre, les autorités locales seront tenues de prêter toute

l'assistance en leur pouvoir pour l'arrestation et la remise de ce déserteur, sur la demande qui leur sera adressée à cet effet par le Consul du Pays auquel appartient le navire du déserteur, ou par le mandataire ou le représentant de ce Consul.

Il est entendu que cette stipulation ne s'appliquera pas aux sujets ~~ou citoyens~~ du Pays où la désertion a eu lieu.

ARTICLE ~~XIV~~. XVI

Les navires ...russes..... entrant dans les ports du Japon payeront, au moment de l'entrée en Douane, des droits de tonnage et de phares à l'un des taux suivants, au choix des capitaines, propriétaires ou agents de ces navires:

1° vingt-cinq sen par tonneau pour une entrée dans un seul port du Japon.

2° trente sen par tonneau pour une période de deux mois, avec faculté de visiter divers ports japonais, mais sans aller à un ou plusieurs ports étrangers.

3° quatre-vingts sen par tonneau pour une période de six mois, avec faculté de visiter un ou plusieurs ports japonais ou étrangers.

4° Les Compagnies chargées d'un service postal pourront, si elles le désirent, libérer leurs navires des droits de tonnage et de phares pour sept voyages réglementaires consécutifs, en payant un droit de quatre-vingts sen par tonneau sur la moyenne des tonnages des navires qui les exécutent.

Ce payement devra se faire lors de la première entrée; il sera calculé d'après les prévisions du tableau de service, sauf remboursement partiel de la part soit des autorités douanières, soit de la Compagnie postale, lors de la septième entrée, au cas où quelque modification ultérieure de nature à changer la moyenne du tonnage se serait produite dans le mouvement des navires.

Le tonnage imposable des navires ...russes..... sera le tonnage net, ~~suivant les règles adoptées par le Gouvernement Japonais pour le jaugeage des navires~~. *

Les navires ci-après seront exempts du payement des droits de tonnage et de phares:

1° les navires de guerre;

2° les bateaux de plaisance;

3° les bateaux de pêche n'ayant pas de cargaison à bord;

4° les navires jaugeant moins de vingt tonneaux;

5° les navires entrant dans un port en détresse ou pour se faire réparer pourvu qu'ils ne s'occupent s de commerce;

6° les navires entrant et sortant sur lest;

7° les navires quittant le port dans les quarante-huit heures après y avoir mouillé, pourvu 'ils ne débarquent, ni n'embarquent, ni ne transbordent de cargaison, et qu'ils ne débarquent, ni ne ennent à bord soit des passagers soit des dépêches de la poste. Néanmoins, les navires payeront droit douanier de quinze yen.

Les droits payés jusqu'ici à l'entrée et à la sortie des navires ...russes..... dans les ports Japon, ne seront plus perçus à l'avenir.

ARTICLE ~~XV~~. XIX

Pendant une période de cinq ans à compter de la mise en vigueur du présent Traité, la juridic- n qui sera exercée par les tribunaux ~~consulaires~~ russes sur les sujets ~~ou citoyens~~ ...russes..... leurs biens sera, d'une manière territoriale, limitée aux Concessions étrangères de Hakodaté, kio, Yokohama Osaka, Kobé et Nagasaki, et à ceux des ports joints à ces Concessions, qui t aujourd'hui ouverts aux navires ...russes..... ainsi qu'aux autres localités avoisinant ces cessions étrangères, où les sujets ~~ou citoyens~~ ...russes..... sont autorisés, d'une manière per- ente en vertu de traités ou autres arrangements formels, à y résider et à y louer des terrains. Et rtir du même moment, sur tous les points du Japon, en dehors des limites des Concessions étrangères,

* La capacité des navires, telle qu'elle est indiquée dans les papiers de bord, servira de base sur laquelle les droits de tonnage et de phares seront calculés.

l'assistance en leur pouvoir pour l'arrestation et la remise de ce déserteur, sur la demande qui leur sera adressée à cet effet par le Consul du Pays auquel appartient le navire du déserteur, ou par le mandataire ou le représentant de ce Consul.

Il est entendu que cette stipulation ne s'appliquera pas aux sujets ~~ou citoyens~~ du Pays où la désertion a eu lieu.

ARTICLE ~~XIV~~. XVI

Les navires ...russes..... entrant dans les ports du Japon payeront, au moment de l'entrée en Douane, des droits de tonnage et de phares à l'un des taux suivants, au choix des capitaines, propriétaires ou agents de ces navires:

1° vingt-cinq sen par tonneau pour une entrée dans un seul port du Japon.

2° trente sen par tonneau pour une période de deux mois, avec faculté de visiter divers ports japonais, mais sans aller à un ou plusieurs ports étrangers.

3° quatre-vingts sen par tonneau pour une période de six mois, avec faculté de visiter un ou plusieurs ports japonais ou étrangers.

4° Les Compagnies chargées d'un service postal pourront, si elles le désirent, libérer leurs navires des droits de tonnage et de phares pour sept voyages réglementaires consécutifs, en payant un droit de quatre-vingts sen par tonneau sur la moyenne des tonnages des navires qui les exécutent.

Ce payement devra se faire lors de la première entrée; il sera calculé d'après les prévisions du tableau de service, sauf remboursement partiel de la part soit des autorités douanières, soit de la Com-

Article XVII

Les navires japonais et leur cargaison dans un port de Russie et réciproquement les navires russes et leur cargaison ~~dans un port~~ au Japon, à leur arrivée, soit directement du pays d'origine, soit d'un autre pays, et quelque soit le lieu de provenance ou la destination de leur cargaison, jouiront, sous tous les rapports, du même traitement que les navires nationaux et leur cargaison.

Aucun droit, taxe ou charge quelconque pesant sous quelque dénomination que ce soit, sur la coque du navire, son pavillon ou sa cargaison, et perçu au nom ou au profit du Gouvernement, de fonctionnaires publics, de particuliers, de corporations ou d'établissements quelconques, ne sera imposé aux bâtiments de l'un des deux Etats dans les ports de l'autre, à leur arrivée, durant leur séjour et à leur sortie, qui ne serait pas également et dans les mêmes conditions imposé aux navires ~~étrangers~~ nationaux.

Article XVIII.

Les stipulations du présent Traité seront applicables à tous les bâtiments naviguant sous pavillon russe sans distinction aucune entre la marine marchande russe proprement dite et celle qui est inscrite dans les ports du Grand Duché de Finlande.

* La capacité des navires, telle qu'elle est indiquée dans les papiers de bord, servira de base sur laquelle les droits de tonnage et de phares seront calculés.

ports et localités ci-dessus mentionnés, les tribunaux japonais auront et exerceront une juridiction complète et exclusive, tant civile que criminelle, sur les sujets ~~ou citoyens~~ russes ..... et leurs biens conformément aux lois du Japon. A l'expiration des cinq ans précités toute la juridiction jusqu'alors exercée par les tribunaux consulaires russes au Japon et les priviléges, exemptions et immunités dont, à ce moment-là, les sujets ~~ou citoyens~~ russes ..... jouissaient, comme faisant partie de cette juridiction ou y appartenant, cesseront et finiront entièrement d'une manière absolue et sans notification. Dès lors les tribunaux japonais se chargeront de toute cette juridiction et l'exerceront. Les tribunaux consulaires russes continueront de fonctionner jusqu'à ce que la décision définitive aura été rendue quant aux actions *lis pendens* devant ces mêmes tribunaux au moment fixé pour l'abolition de la juridiction consulaire.

~~Article XVI.~~

* A l'égard de la signification des mandats, citations et de l'exécution des jugements, arrêts et sentences, les tribunaux japonais et les tribunaux consulaires russes se prêteront réciproquement une assistance judiciaire en tant que les lois de leurs Gouvernements respectifs le permettent.

Pendant la continuation de la juridiction consulaire, les tribunaux consulaires russes continueront à exercer dans toutes les parties du Japon leur juridiction sur les sujets russes en ce qui concerne des questions touchant au statut personnel. Il est, toutefois, entendu, que si dans un procès devant un tribunal japonais la question touchant au statut personnel était soulevée incidemment ou comme conséquence, ce tribunal japonais aura le droit de juger cette question pour le cas présent, conformément aux lois russes.

~~les tribunaux japonais et ..... se prêteront une assistance réciproque.~~

Article ~~XVII.~~ XX

Dans le cas où des sujets ~~ou citoyens~~ russes ..... désireraient, à un moment quelconque avant l'abolition définitive de la juridiction consulaire russe ..... se soumettre exclusivement à la juridiction japonaise, ils pourront le faire à condition qu'ils formulent et déposent à leurs autorités consulaires compétentes et aux autorités locales japonaises compétentes une déclaration formelle à cet effet, mais cette soumission n'enlèvera pas aux tribunaux consulaires russes ..... leur juridiction sur ces sujets ~~ou citoyens~~, laquelle appartiendrait autrement auxdits tribunaux, par rapport à des responsabilités encourues et des délits commis par lesdits sujets ~~ou citoyens~~ avant de faire cette soumission.

Article ~~XVIII.~~ XXI

Chacune des Hautes Parties Contractantes pourra nommer des Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls et Agents Consulaires dans tous les ports, villes et places de l'autre, sauf dans les localités où il y aurait inconvénient à admettre de tels agents.

Cette exception ne sera cependant pas faite à l'égard de l'une des Parties Contractantes sans l'être également à l'égard de toutes les autres Puissances.

Les Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls et Agents Consulaires exerceront toutes leurs fonctions et jouiront de tous les priviléges, exemptions et immunités qui sont ou seront

Article XXII.

Les Parties Contractantes conviennent qu'en toute matière concernant le commerce, l'industrie et la navigation, tous priviléges, faveurs ou immunités quelconques, que l'une des Parties Contractantes aurait déjà accordés ou pourrait accorder à l'avenir au Gouvernement ou aux sujets ou citoyens de, tout autre Etat, seront étendus immédiatement et sans conditions au Gouvernement ou aux sujets de l'autre Partie Contractante, la volonté des deux Parties Contractantes étant que pour tout ce qui concerne le commerce, l'industrie, et la navigation les japonais en Russie et les russes au Japon jouissent du traitement de la nation la plus favorisée.

ARTICLE XXIV.

Pendant la durée de la juridiction consulaire les sujets ~~ou citoyens~~ ...russes..... au Japon ne seront, dans les limites territoriales de cette juridiction, passibles que des taxes, impôts, droits et frais imposés sur les sujets japonais, à l'égard des entreprises industrielles ou manufacturières. A partir du jour de ~~l'échange des ratifications de ce~~ Traité, en dehors des limites territoriales de la juridiction consulaire et du jour de la cessation de la juridiction consulaire dans tout l'Empire, les sujets ~~ou citoyens~~ ...russes..... seront passibles des mêmes taxes, impôts, droits et frais que le sont les sujets japonais.

l'entrée en igueur du ésent

ARTICLE ~~XXII.~~ XXV

XIX En même temps que la juridiction consulaire au Japon sera abolie, en conformité de l'Article ~~XV~~ du présent Traité, les titres de tous biens fonciers concédés ou arrentés à bail perpétuel par le Gouvernement Japonais, et qui seront, à cette époque, possédés par des sujets ~~ou citoyens~~ ...russes.. soit en société, soit individuellement, en qualité de gérants ou autrement, seront convertis en titres définitifs ; les possesseurs de ces biens fonciers en deviendront dès lors propriétaires absolus, et obtiendront du Gouvernement Japonais, en rendant leurs titres de concession, des titres de propriété foncière. Les rentes antérieurement payées sur ces biens fonciers cesseront alors d'être perçues, et, aux lieu et place desdites rentes, ces biens fonciers seront soumis aux mêmes impôts nationaux et locaux que ceux qui frappent les biens de même nature possédés par les sujets du Pays, et ils seront aussi, à tous autres égards, soumis aux lois du Japon qui régissent la propriété foncière.

Il est entendu, toutefois, que, dans tous les cas où une réduction de la rente des terrains possédés à bail perpétuel aura été accordée par le Gouvernement Japonais à cause de l'usage auquel ces terrains ont été affectés, les impôts à percevoir à l'avenir aux lieu et place de cette rente réduite n'en excéderont pas le montant.

Lorsque les changements ci-dessus dans la nature de la propriété foncière auront été effectués, toutes les concessions étrangères seront entièrement et pour le tout incorporées dans les communes

Cette exception ne sera cependant pas faite à l'égard de l'une des Parties Contractantes sans l'être également à l'égard de toutes les autres Puissances.

Les Consuls-Généraux, Consuls, Vice-Consuls, Pro-Consuls et Agents Consulaires exerceront toutes leurs fonctions et jouiront de tous les priviléges, exemptions et immunités qui sont ou seront accordés à ceux de la nation la plus favorisée.

ARTICLE ~~XIX~~.

~~Les Hautes Parties Contractantes conviennent qu'en toutes matières concernant le commerce et la navigation, ainsi que la libre circulation et la résidence dans leurs territoires respectifs, tous priviléges, faveurs ou immunités quelconques que l'une des Parties Contractantes aurait déjà accordés ou pourrait accorder à l'avenir au Gouvernement ou aux sujets ou citoyens de tout autre Etat, seront étendus au Gouvernement ou aux sujets ou citoyens de l'autre Partie Contractante gratuitement, si la concession en faveur de cet autre Etat a été gratuite; et, sous les mêmes ou équivalentes conditions si la concession a été conditionnelle.~~

ARTICLE XXIII.

Tous les priviléges et immunités dont les sujets ~~ou citoyens~~ *Russes* ..... ont joui jusqu'ici au Japon en vertu de traités et d'arrangements antérieurs, sont maintenus pendant la durée de la juridiction consulaire, en tant qu'ils ne sont pas abrogés par les stipulations du présent Traité, et à partir du jour où la juridiction consulaire cessera d'exister, tous ces priviléges et immunités seront considérés comme abrogés à moins qu'ils ne soient maintenus par ce Traité.

ARTICLE XXIV.

Pendant la durée de la juridiction consulaire les sujets ~~ou citoyens~~ *Russes* ..... au Japon ne seront, dans les limites territoriales de cette juridiction, passibles que des taxes, impôts, droits et frais imposés sur les sujets japonais, à l'égard des entreprises industrielles ou manufacturières. A partir du jour de ~~l'échange des ratifications de ce~~ Traité, en dehors des limites territoriales de la juridiction consulaire et du jour de la cessation de la juridiction consulaire dans tout l'Empire, les sujets ~~ou citoyens~~ *Russes* ..... seront passibles des mêmes taxes, impôts, droits et frais que le sont les sujets japonais.

l'entrée en vigueur du présent

ARTICLE ~~XXII~~. XXV

XIX

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Lorsque les changements ci-dessus dans la nature de la propriété foncière auront été effectués, toutes les concessions étrangères seront entièrement et pour le tout incorporées dans les communes

japonaises respectives ; à partir de ce moment, elles formeront une portion intégrante du système municipal du Japon, et les autorités compétentes assumeront toutes les obligations et charges municipales qui s'y rattachent. En même temps, les fonds et biens municipaux appartenant à ces concessions seront transmis auxdites autorités japonaises.

Tous les terrains qui auront été précédemment donnés, exempts de rentes, par le Gouvernement Japonais pour un usage public dans les concessions étrangères, resteront, sous réserve des droits de la souveraineté territoriale, d'une façon permanente affranchis de toutes taxes ou charges et consacrés à l'usage public pour lequel ils ont été originairement réservés.

~~Article XXIII.~~

~~Les Hautes Parties Contractantes sont convenues de considérer comme faisant partie du présent Traité les règlements qui y sont annexés, à savoir : les Règlements Commerciaux et les Règlements des Entrepôts du Gouvernement.~~

Article XXIV.

Le présent Traité sera ratifié le plus tôt possible et les ratifications en seront échangées à Tokio. Il entrera en exécution à partir du ..... ~~188~~ ..... et restera en vigueur pendant douze ans entiers. onzième jour du deuxième mois de la vingt-troisième année de Meiji correspondant au vingt Janvier mil huit cent quatre-vingt-dix.

L'une ou l'autre des Hautes Parties Contractantes aura le droit, à un moment quelconque après ~~qu~~ que onze ans se seront écoulés depuis le jour de l'entrée en vigueur du présent Traité, de notifier à l'autre son intention de mettre fin au présent Traité, et, à l'expiration de douze mois après cette notification, ce Traité cessera et finira entièrement.

En foi de quoi, les Plénipotentiaires respectifs ont signé et scellé de leur sceau le présent Traité en ~~quatre expéditions, dont deux en langue japonaise et deux~~ deux exemplaires et en langue *français*, ~~ayant toutes le même sens et la même portée ; toutefois, en cas de conflit, le texte ..... fera foi.~~

Fait à Tokio, le *huitième* jour du *huitième* mois de la ~~vingt-deuxième~~ année de Meiji, correspondant au *vingt-sept.* mil huit cent quatre-vingt *neuf* ~~de l'Ere chrétienne.~~ Juillet de l'An de Grâce

(Signé) Comte Okuma Shigenobu.
[L. S.]

(Signé) Dmitri Schévitch.
[L. S.]

Articles Séparés.

Articles séparés.

Article I.

Les relations commerciales de la Russie avec les Royaume de Suède et de Norvège et les Etats et pays limitrophes de l'Asie, étant réglées par des stipulations spéciales concernant le commerce de frontière et indépendantes des règlements applicables au commerce étranger en général, les deux Hautes Parties Contractantes conviennent que les dispositions spéciales contenues dans le Traité passé entre la Russie et la Suède et la Norvège le 26 Avril (8 mai) 1838, ainsi que celles qui sont relatives au commerce avec les autres Etats et pays ci-dessus mentionnés, ne pourront, dans aucun cas être invoquées pour modifier les relations de commerce et de navigation établies entre les deux Hautes Parties Contractantes par le présent Traité.

Article II.

Il est également entendu que ne seront pas censés déroger au principe de réciprocité, qui est la base du présent Traité, les franchises, immunités et priviléges mentionnés ci-après, savoir:

de la part du Japon:

Le monopole sur quelque article que ce soit que le Gouvernement Impérial du Japon pourrait se réserver à l'avenir.

et de la part de la Russie:

1.) La franchise dont jouissent les navires construits en Russie et appartenant à des sujets russes, lesquels pendant les trois premières années sont exempts des droits de navigation.

2.) La faculté accordée aux habitants de la côte du Gouvernement d'Arkhangel d'importer en franchise ou moyennant des droits modérés dans les ports dudit Gouvernement du poisson sec ou salé, ainsi que

certaines espèces de fourrures, et d'en exporter de la même manière des blés, cordes et cordages, du goudron et du ravendouc.

3.) Les immunités accordées en Russie à différentes compagnies de plaisance dites Yacht-clubs.

4). Le monopole sur quelque article que ce soit que le Gouvernement Impérial de Russie pourrait se réserver à l'avenir.

Article III.

Les présents articles séparés auront la même force et valeur que s'ils étaient insérés mot à mot dans le Traité de ce jour. Ils seront ratifiés et les ratifications en seront échangées en même temps.

En foi de quoi les Plénipotentiaires respectifs les ont signé et y ont apposé leur cachet.

Fait à Tokio le huitième jour du huitième mois de la vingt deuxième année de Meiji, correspondant au vingt sept Juillet de l'An de Grâce Mil huit cent quatre-vingt neuf.

Signé

Comte Okuma Shigenobu
Dmitri Schévitch.

DEPARTMENT OF STATE
SEP 13 1889
RECEIVED.

DIPLOMATIC BUREAU.
DIPLOMATIC BUREAU.
SEP 16 1889

Requisition from Mr Griffin noted for copy of Digest. mailed Sept 17 89.

No. 39.

Rec'd. Sept 17 89
Kelly

Legation of the United States,

Tokio Japan, August 20, 1889.

2D ASSISTANT SECRETARY.
Appendix to vol III is out of print. Can we send the Second ed. containing it?
SEP 14 1889

Mr Swift:

To the Secretary of State.

Subject:

Request for Cabinet volumes of Wharton's International Law Digest.

No. 39. Legation of the United States,
Tokio Japan. August 20, 1889.

Hon James G. Blaine
Secretary of State,
Washington D.C.

Sir.

There are in the Library of this Legation volumes I, II and III, only, of Wharton's International Law Digest, as published in 1886. I have, therefore the honor to request that any additional volumes of that valuable work, which have been published since that time, may be sent to this Legation.

I have the honor to be
Sir
Your obedient servant.
John F. Swift

2d ASSISTANT SECRETARY.
Ack by subject-
abd
SEP 25 1889

DEPARTMENT OF STATE
SEP 25 1889
RECEIVED.

DIPLOMATIC BUREAU.
SEP 26 1889

No. 40.

Legation of the United States,
Tokio, Japan, Aug 26. 1889.

Mr. Swift
To the Secretary of State,

Subject;
Treaty Revision in Japan.

Synopsis:

The tariff schedule of Feby. 20, 1889 criticised. It discriminates against American productions and in favor of European. Tariff-rate based upon 3.500.000 dollars revenue to be raised, of which American kerosene oil will pay from 350.000 to 450.000 dollars.

I British

British and German merchandise taxed on an average 7%, against American from 12% to 14%.

Party of opposition to treaty revision increasing in activity. Name of leader.

Comments on supposed effect of Treaty on existing acts of Congress.

No. 40.

Legation of the United States,
Tokio, Japan, August 26. 1889.

Honorable James G. Blaine,
Secretary of State,
Washington,

Sir,

The growing force of the movement against the new Treaties in Japan, is so manifest that I consider it my duty to continue to apprize you of its progress and bearing. In my earlier despatches upon this subject I had the honor to point out to you what seemed to me to be the curious and illogical circumstance that the Japanese Government in revising the

treaties

treaties was passing over and surrendering apparently as a matter of minor importance the sovereign power to regulate commerce, and to raise revenue by duties to be collected at her Custom houses, while insisting upon and purchasing the abolition of consular jurisdiction, at the price and risk of plunging her people into the doubtful experiment, of sweeping away her ancient customs, and the substition of a brand new code of laws, made to order by a French law professor.

The United States through her Diplomatic Representatives in Japan, has always since Treaty Revision was first mooted, steadily and warmly sided with Japanese

aspirations

aspirations for autonomy in all respects, financially, commercially, and judicially. In this I have no doubt our Ministers have fairly spoken the views of their Government and country-men. But American Commercial interests have never been agressive, at least in foreign parts. Our merchants and manufacturers have been too much occupied in the struggle with Europe, over the home market, to extend the strife very energetically abroad. Suffering severely at home as they have from foreign competition, they have naturally sympathized with Japan whose markets were being invaded by competitive traders,

backed

backed by naval armaments, strong enough to sweep away customs barriers, and to set aside and annul disagreeable trade regulations. To European manufacturers foreign markets are often of supreme importance. To get them, in the opinion of those interested, war itself is not unjustifiable. As the Japanese treaties stand unrevised, the countries of Europe hold possession of the richest part of the trade of Japan. They skim off the cream. As to supplying anything in the shape of manufactured articles, the Americans cut but an indifferent figure. Our trade with this country is considerable in the aggregate, but it

it is as a buyer, and not as a seller, that the exhibit is made up. She are Japan's best customer. She buy her silk and tea, paying for them largely in money, with which she buys cloth, iron and steel articles, and general merchandise from Europe. Our chief article of export to Japan is kerosene oil. Our trade to Japan would not of necessity be materially changed if both consular jurisdiction and treaty made customs tariffs were abolished. We need not therefore be restrained by any selfish motive from according to the Japanese Empire and people respectful, honorable and above all just treatment. All of those considerations call upon us to accord to Japan the position and

right

right of a sovereign civilized state the moment it appears this can be done with safety to mankind at large, and the interests of civilization, putting our own pecuniary interests, if we have any, as beside the question. When we take into account the condition of Japan in the earlier stages of foreign intercourse with her, it becomes manifest that both the concessions of consular jurisdiction, as well as tariffs and trade regulations were necessary in order to lead her into the line of commercial nations. It was impossible for foreigners to submit themselves to Japanese jurisdiction in those times. They could not

have

4 no 2

have lived under them. It was also impossible for commerce to be carried on without known and established charges, duties and regulations, and the only way to get them seemed to be by treaty. These capitulations were justifiable because they were necessary and were therefore justifiable, as long as they were necessary, and no longer. The moment either of them ceased to be necessary, that one should have been abolished, and in the order of time in which its necessity ceased. It is claimed by the Japanese that as to both, such time has come. It certainly has come as to trade regulations and customs duties. For ten years or more the custom houses of

Japan

Japan have been as well and regularly and fairly conducted, as any ~~in the world.~~ For ten years or more the commercial restrictions upon the country have been unnecessary, and being unnecessary have been unjustifiable. But it is not nearly so clear that it would be prudent or beneficial, either for the foreign residents of Japan, or the Japanese themselves, to have consular jurisdiction abolished. At least there are intelligent foreigners friendly to Japan, who maintain the contrary. And if as the price of the submission of 2,000 foreign residents and the extension of Japanese jurisdiction over 500 acres of territory, now in part exempt

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exempt, Japan at a single act plunges her own people into the perils and chances of a doctrinaire code, modeled after that of France, but which may or may not be workable even in France, then it does seem to be of doubtful wisdom. But as to that I do not intend to express an opinion. I am convinced that the position long since taken by the Government of the United States, namely, that it is due to Japan that she settle these questions for herself, is the correct one. But I do not deem it out of place to give you what seems to me to be the reason that treaty revision has been gone about wrong end first, if such has been the case. It seems to me to have been the result

of

of European, as distinguished from American commercial influence. To the merchants and manufacturers of Europe if the new treaties are finally concluded upon present lines, Japan will remain after treaty revision, as before as to their trade a conquered country. In the new treaties the tariff and commercial regulations will stand be fixed and unchangeable absolutely for twelve years, and practically for an indefinite period. To change them will be to break a treaty, and the complaints of the injured merchants might be made a pretext for war. For Japan to resort to war with any of the states that have imposed upon her these

commercial

commercial fetters, and who still insist upon keeping them upon her, would be to invite further humiliation. The United States has long wanted Japan to assist herself, and to put aside all those ~~derogatory~~ impositions, and has been ready to give her at least moral support in doing so. We made a treaty to that effect more than ten years ago, namely, the Treaty of 1878. Why she has not done this, but has adhered to the system of treaty made tariffs, while perhaps not important to us, is still worth looking into as a matter of curiosity, if for no other reason.

I repeat that the commercial rights of Japan have been ignored because

of

of European commercial influence continuously voiced, in print, in public speech and private conversation, not perhaps with preconcerted design, but steadily exerted through many years of time, by diplomatists, by merchants and by the foreign press in Japan, tuned into perfect harmony and accord, by the common interest of European trade. Among these influences not the least important is that of the English Press in Japan. There are three daily newspapers printed in the English language at Yokohama. They are all conducted with exceptional, and some with extra-ordinary ability. They are all owned and controlled by British subjects. They all appear

to

to take the side of Japan in her contention for treaty revision, but in doing so with a singular uniformity, manage to direct Japanese efforts in the line of British commercial interests. They all demand treaty revision forcibly and persistently, in season and out, and often attack with more or less severity those who hang back. And they almost all agree that the one thing needful is to get rid by treaty revision of consular jurisdiction and extra-territorial rights of foreigners. But whether they all demand abolition of extra-territorial privileges, or whether only part of them do so, there is the most perfect unanimity at least in this: seldom a word is said in any of

them

them about the injustice of depriving Japan of the sovereign right of regulating her commerce with foreign countries, or of determining for herself what amount of revenue she will collect by duties upon imports at her own frontier, or upon what particular articles she will impose those duties. Without attempting to quote from any of these journals it is enough to say, that in discussing the tariff question they take the tone of the merchants interested in the Japanese trade. In the opinion of these, Japan has not yet made sufficient progress in the science of true political economy to render it safe for her to be entrusted with the control of so delicate

delicate a matter as the regulation of trade with foreign nations. That there is great danger that if they once assumed the regulation of commerce, the Japanese might be captivated and led astray by vicious protection theories. In the same direction is the general line of speech and print of foreigners resident in Japan. Again, young Japanese go to Europe in search of education. These are at once brought under European commercial influences. Wherever they go, in educational, scientific, political, or commercial circles, the same song is sung to them, which, in substance, comes to this; that the commercial leading

strings

strings in which Japan is held are for the best interests of the country. That they will keep her in the true path of free trade until her rulers shall by education become wise enough to appreciate & assisted the advantages of that system. In my opinion the fears of European merchants are quite groundless. I do not imagine for a moment that if Japan were left to herself, and could make her own tariff regulations, she would embark upon a scheme of protection. But the word protection has a terror to the European merchant scarcely understood elsewhere. Each fears that an increase of

duties

duties may affect unfavorably his particular trade, while the most of them look upon all tariffs as commercial heresy fraught with evil. The consequence has been and is a powerful effort concentrated upon Japanese opinion to swing it into the lines of free trade. In the opinion of this class, for a country to be restrained by force or by finesse from levying a high tariff, or indeed any tariff, is not a humiliation; but a positive benefit to it. It is not therefore strange that Japanese statesmen, burning with patriotism and proud of their country, as all Japanese are, should have been led to overlook the chief badge of servitude

imposed

imposed upon Japan by Europe, and to push a matter of secondary importance to the front, yielding everything for its success. It seems to me that this is what has occurred in the Treaty of February 20, 1889. A treaty draft, made up in part at least at the Japanese Foreign Office, embodying what was supposed to be the alterations in existing treaties desired by Japan, was presented to my Predecessor. It contained only a part, and a small part, of what the United States had long since announced her willingness to concede. The United States Minister at Tokio certainly seemed to be fully justified in signing a

a treaty for the surrender of the whole
or any part
of these long agreed upon concessions.
If Japan chose to waive the most
important part of her rights, and to
claim the least, it was not for him
to object on that account. There
is no doubt that had the draft as
tendered contained a provision sur-
rendering for the United States all
fixed tariff and trade regulations
and yielding the right to be consult-
ed in the making of them in
future, he would have as prompt-
ly signed it. But Japan did
not ask this. On the contrary, she
tendered a new tariff schedule, of
fixed customs duties and trade regu-
lations, to be agreed upon by the
Treaty Powers. Our Minister

under

under instructions from the Secretary of State, signed it on the 20th of February, last, and it is now with you at the State Department. That Treaty, including the tariff of customs duties annexed to it, is the product of the famous Conference of Japanese statesmen and foreign diplomatists held at this capital in 1886 and 1887 to revise the treaties. An examination of the protocols of that Conference on file at the State Department, to which I call your attention, shows most succinctly and graphically the helpless condition of Japan in the hands of European commercial powers as well as the methods of performing their "civilizing mission."

The Diplomatic Corps at Tokio were invited

invited to a Conference and to revise the treaties. They came and for many months conferred for that ostensible purpose. From the first sitting, they constituted themselves what may be described as a constitutional convention, a parliament, a cabinet, a privy council and a national finance committee for all in one Japan with power to act. They set about providing for laws, for the creation of courts and fixing their jurisdiction, for the qualifications of the judges, and for establishing and regulating the police of the country. And while this was going on, a committee was engaged in elaborating a tariff of customs duties. The schedule attached to our treaty was by this committee practically agreed

agreed upon as it now stands.
They began by agreeing among
themselves the precise amount of
revenue Japan should raise each
year by duty upon imports, which
was to be 3,000.000 dollars.
Up to that point all worked smoth-
ly. Then began the manoeuver-
ing and skirmishing of Delegates
for advantage of position, each
member trying his best to take care
of the commercial interest of his
own country, and to push as much
of the burden as possible off his own
commerce and on to that of some-
body else. If in this scramble
American products were sometimes
placed at a disadvantage, it must
be remembered that our Representative

was

was himself acting at a disadvantage. His instructions, by implication, if not in express terms, required him to stand up for the sovereign rights of Japan, long unjustly withheld from her.

It is difficult to defend a cause and at the same time press a counter claim, in any degree based upon selfishness. It would be a man of extraordinary qualities who immediately after denouncing the selfishness of the British Minister in trying to keep down the duty on British sheetings, could rise in his place and demand a specially low rate for American jack-knives.

But European diplomacy is never sentimental. At the Conference

the

the British Minister had no Japanese sympathies to influence him. He was not there to make fine phrases about justice to an interesting and injured nation. He was there to keep down the import duty on iron and steel goods, on cotton yarns, grey shirtings and Manchester duck and drills. And so the Minister from Germany and the other Powers were there taking care of themselves. Indeed there is no telling how badly American products may have at last come out had it not fortunately been discovered, that substantially all the sugar imported into Japan, and which amounts in value to seven millions dollars worth a year, comes from

China

China; and China had not been invited to the Conference, had no Representative there, nor apparently so much as a friend. The result was that the bigend of the 3,500,000 dollars they allowed Japan to raise annually was carefully loaded upon the back of poor, friendless, uninvited China. Sugar was mulcted a round twenty per cent, just twice the rate put upon German Schloss Johanisberger, and twice as much as upon French Chateau Yquem. It is true we follow China in the sales of sugar, but at an immense distance, selling Japan only 24,000 dollars worth to China's seven million, a quantity so trifling and inconsiderable

inconsiderable that our Representative would hardly have gotten down to it, had he even been less occupied upon than he was in defending Japan from the combined attack of his colleagues in the Conference. But Spain, who follows us, with only 14,000 dollars worth of sweets, produced in the Phillipine Islands, did make a row about it, showing the smallness of some nations, and His Catholic Majesty's Representative was hushed up by a rate on cigars and tobacco of two per cent ad valorem, one half what poor China must pay on her sugar. Of course Germany, who only sent to Japan last year 437 dollars worth of the article was not hard to satisfy as to the sugar duty

duty. And Great Britain, who sent, including candy, seven less than Germany, to-wit, 193 dollars worth, all told, could hardly have been otherwise than happy in getting the duty on grey shirtings of which she sends 2. 330. 000 dollars worth at the same rate with tobacco and cigars, namely 10 per cent.

It seems to me the European Powers are likely to accept the Treaty with reasonable alacrity. Of course it is not as advantageous to their interests as the present arrangement, for it increases the duty upon imports. But these two facts have long been evident; first, that Japanese patriotism is committ-

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ed to the abrogation of consular jurisdiction; and second, that Japanese financial necessities are deeply interested in an increased revenue.

European diplomacy has been for years past, using the first named patriotic impulse, as a pressure to keep the amount of revenue to be collected at the Japanese customs houses, at the minimum. They have now succeeded in getting a tariff that is at least endurable if not exactly all they want. This new tariff figures here, as having been conceded as a favor to the United States, and as such it being accepted as rapidly as the usual course of diplomatic negotiation will permit of. Germany has signed.

Russia

Russia has signed. France is said to have practically agreed, and England while making some show of reluctance, will try to get better terms, but succeeding or failing will sign. The reason is obvious. The tariff is still a treaty tariff, beyond Japanese control for at least twelve years, with infinite possibilities of commercial advantages after that. It is still one of the lowest customs tariffs of the world, and leaves the Japanese market for what it is worth, substantially in the possession of the European manufacturer and merchant. And finally, there is not a single article of European production, that is taxed to a degree sufficient to materially interfere

with

with merchant or manufacturers profit. While the duties upon imports are increased in the revised schedule, beyond what is permitted by the present Convention, still the new tariff, is a most studious avoidance of anything like protection. And it is distinctively biased in favor of European commerce, and against trade with the United States and China. It is most adroitly framed for the purpose of what in America we should call a "tariff for revenue only", and has not the slightest feature of even "incidental protection". No discrimination is made between articles of possible production in the country and those not so.

Luxuries

Luxuries are not discriminated against, nor are articles of necessity favored with a low rate. For example, one among the larger items of revenue is to be raised by the duty upon kerosene oil, an article not only not produced, but probably incapable of production in Japan. It is at the same time an article of prime necessity to the people. It is also to be observed that this article so singled out for relatively high, but non-protective taxation, happens to be the chief commodity taken from the United States. How little the commercial interests of our country, the best customer if not the best friend Japan has, have been consulted; and how completely Europe is to the fore, when

benefits

benefits are being given out, will be seen at a glance on examining a statistical summary of Japanese trade for any single year. In 1888, the United States bought of Japan merchandise of the value, rejecting small figures, of $22,600,000 in silver money. Of this sum near $14,000,000 was for silk, which had we not bought, some body else would have bought; but $4,000,000 of it was for Japanese tea, an article which, inasmuch as no other nation does buy, presumably no other nation will drink. Looking at the opposite column, we find that in the same year we sold to the Japanese, goods to the value of only $5,648,000, of which kerosene oil made up the sum of $3,207,000.

Of

Of clocks and watches we sold them worth $313.000, while of cotton cloth we sold them less than $40,000 worth, and of woolen goods outside of $318. worth of blankets, we sold them precisely three pieces, (number of yards not given) valued at even $23.00.

Contrast this with European commerce with Japan.

Great Britain sold to Japan in 1888 over $28,693.000 worth of goods, to which add $7,000.000 worth more taken from India, making over $35,000.000. in all; and only took back $8,700.000. worth in return.

Germany sold to Japan in the same year $5,262,000. worth, and took back $1.617.000. worth only.

Having been the first to sign a

Treaty

Treaty, agreeing upon an increased duty upon articles imported into Japan, thus placing ourselves in the position of having forced Europe into the measure, it would certainly seem that we ought to be the last to complain of unfairness.

Our merchants have long used a term expressive of their opinion of one who complains of the consequences of his own act. And to "squeal after making a bad bargain is what the American merchant is apt to pride himself on not doing.

But this bargain, if made, will not have been made by the merchants, but by the diplomatic department of the Government, which is not precisely the same thing.

That

That American commerce is unfairly dealt with in the new Treaty, seems to me quite apparent. The present rate of 5% ad valorem upon kerosene oil in common with all other commodities, while relatively high is justifiable because of the protective nature of the present tariff. But under the new Treaty, this article so much used by the poor, and therefore so greatly affected in its sale by the slightest advance in price, has been selected for the comparatively exceptional honor of an advance on the list of 200%.

On the old schedule it is 5%. On the new, the rate while specific in terms is put down as being equivalent, and under conditions liable to occur will be equivalent, to 15% ad valorem;

that

that is to say, just three times as high as it was before, and making an increase of 200% in the actual tax. Whether the compliment paid to this American commodity by making it bear a largely increased share of the expenses of the Government of Japan, will be accepted by our merchants as an equivalent for a certain amount of loss of profit and reduced sale, is a question I shall not venture to answer for them.

But if it is an honor for a humble and unpretentious substance like kerosene oil, that so often finds itself expended in the cheap dwelling of poverty, to be taxed along with the satins, and velvets, and adornments of the wealthy and great, then this simple product

of

of the United States gains whatever there is to be had in such a distinction. Kerosene oil and velvet and satin under the new tariff have to pay at the Japanese customs houses, each 15% duty, and kerosene may well feel proud of its company. But this is only a tithe of the distinctions our humble commodity is to have heaped upon it. Among all the great tribe of oils applied to the uses of human life, those classified as articles of necessity, as well as those regarded peculiarly as luxuries, in Japan kerosene is to stand on an eminence an object of supreme exhaltation. None of the oils are to pay anything like as high a tax. Some of the tribe are set down at the contemptibly

low

low duty of 5%. And even that exquisite condiment expressed from the fruit of the olive, and permitted to grace the table and flavor the salad of princes, must submit to the humiliation of paying no more than 10%; while even the oil or attar of roses, under the name of perfumery, is unceremoniously degraded to the same vulgar level. But if olive oil is dealt with in the new tariff in this mortifying manner, it will be able to obtain a certain amount of solace in the reflection, if it reflects, that by its side on the same princely board will be found the truffle and the champignon of the gourmand, in all their forms and variations, along with caviare and

pate

pate de foi gras, and saucisse de Lyons, and anchovies, and marmelades, and sauces endless, and rochefort and parmesian cheeses, and a vast array of aristocratic delicacies that, under the vulgar and common place name of provisions, will have crossed the same frontier, but are denied the honor of contributing to the expenses of H. I. M's. Government more than 5% on their cost in Europe.

It is worthy of remark that in the new tariff no article of either dress or food, save sugar alone, is graded up with kerosene oil, and that but few articles of drink are so honored. Even sparkling Champagne, the beverage of kings, ranks below our substance, by 2½ %. And those other aristocratic

aristocratic drinks port and sherry must each in the same proportion give the pas to our American lubricant. In fact to find upon the new schedule any fluid substance whatever, potable or non-potable, that is rated at a higher duty than our respectable and useful kerosene, it must be sought for in those vicious and demoralizing liquids fruitful sources of poverty and crime, such as gin, whiskey and rum, and it is possible that even these may have been rated at higher duties as a means of excluding them from the country. But as these after all, only pay 5% more than the American oil, it may well be considered as doubtful whether our

beneficent

beneficent heroine is not more likely to be excluded than those baneful and soul destroying substances.

If a feeling of national pride, at the thought of an American commodity being thus singled out for special honors, tended to influence the late Secretary of State, and my excellent and gifted Predecessor, to accept and even to champion the new Treaty, it is certainly a mark of patriotism, whatever may be thought of it as a matter of business sharpness.

All good Americans must take pride in seeing our productions take high rank and position in the commerce of the world, even if it be only in the columns of a tariff schedule.

And I know of no product of all the

the broad territory of the Union,
whether raw or manufactured, crude
or refined, more deserving of any honor
that may be heaped upon it, than
this same useful and light giving,
though when below a standard of
something like 150 degrees of test, not
always either safe or sweet smelling
substance, kerosene oil.

The second item on the
list of goods sent from America to
Japan as to quantity and value is
that of clocks and watches, of which
we sold them last year a little less
than $300.000. worth. The duty
set upon them by the new tariff will
be 10% ad valorem. Great Britain
sent less than $ 10,000. worth the
same year. But during the same
period

period she sent over $7,300,000. worth of cotton yarns, more than half as much again as our entire sales for the year to Japan of everything, while we did not sell her so much as a single skein of cotton yarn. On the new tariff cotton yarn is to pay only 8% duty. It cannot be said that cotton yarn is any more necessary to the people of Japan than kerosene oil: But it can be made in the country, and with Japanese cheap labor; with very little encouragement would be made here, which kerosene cannot. Even admitting that a general system of protection would be bad policy for Japan, certainly here in cotton yarns, grey shirtings and cotton goods generally is a chance

for

for "incidental protection" that few statesmen in any country would neglect to take advantage of. Possibly the solution of the curious circumstance of taxing kerosene 15% to 8% upon cotton yarn may be found in the fact that the British Government was not as anxious to gain a diplomatic victory by leading treaty revision in Japan as was the late administration of the United States. We supplied Japan last year with $250.000 worth of leather, against $20,000 worth supplied by Great Britain. Leather is a substance relatively but little used in Japan and our shipment though apparently small, is really the largest amount imported. The new tariff duty upon leather is placed at

ten

ten per cent ad valorem.

Last year Great Britain sold the Japanese $236.000. worth of pig iron and steel rails, while the United States did not sell them a single pound of either. The duty on each under the new Treaty is 5%.

The making of wheeled vehicles such as road wagons and carriages is a handicraft in which our people excel the world. These articles are among the commodities which in consequence of our superior skill we are in a measure able to compete with Europe. They are taxed 15% in the new tariff, while locomotive engines, with which England supplies most nations of the Continent of Europe and Asia, including Japan, are taxed 5 per cent.

The:

The vast line of iron and steel articles and machinery, the sale of which from Great Britain to Japan runs far into the millions, alone exceeding our entire export trade with this country, are taxed from 7½% to 10%. The same is true of woolen cloth of which we do not send a yard. From this it will be seen that while the new tariff is not a tariff for protection, but for revenue for Japan, yet it is admirably arranged so as to draw from American commodities the maximum and from European commodities the minimum of that revenue. That a schedule taxing the vast line of luxury and necessity coming exclusively from Europe at lower rates and often half or one third of the rates of articles

articles of

produced

produced exclusively in the United States should be the outcome of a treaty revision in which we are understood as having taken the lead, is certainly a curious result.

If Japan had secured by the treaties a recognition of her sovereign power to regulate her own commerce, and in the first exercise of it had singled out for special taxation an article largely produced by us, I am sure no American would have been heard to complain. What we assume for ourselves as a nation, we are generally willing to concede to others. And besides in such case we might hope for a change of policy after experiment, and that the excessive rate would soon be voluntarily reduced. But these

are

are not the circumstances. Here is the work of a committee of European diplomatists juggling with the Japanese tariff to suit their own interests. Those who made the schedule justify the high rate put upon certain articles because it is a "tariff for revenue only", and that such articles are able to bear the high rate. But a close examination leads to the suspicion that the rate has not been fixed so much at what the articles were able to bear, as at what the Minister representing the producing country was willing to let them bear. And it is not probable that had China been represented at the Conference as energetically as was Great Britain, Sugar would have

have been called upon to bear twice as much as greyshirtings or four times as much as pig iron or steel rails. But let that all be as it may, the entire Diplomatic Corps at this Capital concedes that American diplomacy has achieved a great and overwhelming victory in releasing Japan from her bondage and dictating the terms of the first treaty, while the gratitude of Japan, though silent, is understood to be immeasurable. Surely these things are worth much, and should by no means be overlooked in summing up the losses and gains by the new treaty.

As I have already had the honor to inform you in my other despatches,

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a considerable body of Japanese statesmen is understood to be opposing with more or less activity treaty revision on the present lines. How strong the opposition party is I am unable to say; but it is evidently growing. I do not see any likelihood that it will succeed in defeating the Government in its purpose, but think the treaties will go through to final ratification. But at any rate the party now has an organization, consisting of men of respectability and good standing in the country. The most prominent of these is Count Soshima, at present a member of the Privy Council, but formerly in the Cabinet, in which a few years ago he held the portfolio

of

of Foreign Affairs. He is sixty years of age, of high rank in one of the prevailing Southern Clans, that led in the restoration of the Emperor to power by the overthrow of the Shogunate. He was at one time counsellor or advisor to the Emperor. He is a man universally respected for his purity of character and high educational attainments.

It is understood that this gentleman accompanied by a deputation of the Chiefs of the party of opposition formally called upon Count Okuma recently and demanded that the plan of treaty revision be definitively abandoned. Having made this demand, and been formally refused, he now intends, so it is said, to appeal to H.I.M. the Emperor in person, and that he has taken steps

to

to obtain an audience for that purpose. I enclose you, herewith, a clipping from the "Japan Gazette" of August 19, containing a translation from the "Nichi Nichi Shimbun", a leading Japanese journal of Tokio, giving a detailed account of the interview between Counts Soyeshima and Okuma on the occasion referred to.

I also transmit to you a clipping from the Japan Herald of the 28th of August, containing a translation from the "Nippon", detailing an interview with Count Okuma on the subject of treaty revision, which has the appearance of being genuine, and which throws so much light upon the Count views upon the subject that I think it will be interesting to you.

What

What if any effect the anti treaty revision party may have will at last depend upon the position assumed by the Emperor. It is certain that the present cabinet will go forward, and that nothing will stop them short of a positive order from the throne.

In my No. 37 while informing you of the action of the Japanese Government in sending laborers to Hawaii under contracts with the sugar planters, and of the possibility that they might turn their attention to supplying laborers to the United States, I ventured to point out what seemed to me to be a danger that the confirmation of the Treaty of Feby. 20, 1884 might, as to Japanese, repeal by implication the acts of Congress excluding

excluding contract laborers.

I am aware that this involves a question of the exclusive power of Congress to regulate commerce with foreign nations and as to the effect of a treaty providing for such regulation. It is true that commerce is held to be intercourse; but it is the coming of immigrants into the country such intercourse that a treaty could not regulate it? The Burlingame Treaty did so and no question was ever made of this power. And suppose Congress should pass an act absolutely excluding Chinese from the country, and that a treaty should afterwards be made permitting them to come, would the treaty be void as in conflict with the act of Congress? Perhaps it would. And perhaps

I

I was hasty in venturing to decide the question with respect to Japanese, but it is worthy of your consideration. It is at least possible that if the thing stipulated for in the treaty, namely, the right of all Japanese subjects, to freely come to the United States, and there reside, is within the treaty making power, then the Treaty of Feb. 21, 1889, being made subsequent to the act of Congress prohibiting the coming of contract laborers, should relieve Japanese laborers from the effect of that act.

It is not any more a violation of natural morality to go from one country to another under a contract of labor than it is to go from one district to another, or from one village to another under such a contract.

The

The question is one wholly of political policy. And it would seem to be reasonable that a state making such a treaty with us, has the right to expect from us, and to have faith in the completeness and entire legality, of any treaty stipulation express or implied, we may make with it. And that they can safely have confidence that our Government would not conclude a treaty with another state, which contained any stipulation, express or implied, in conflict with existing law, and likely to be rendered by them nugatory and illusive.

I have the honor to be,

Sir,

your obedient servant,

John F. Swift

Enclosure

Enclosures—

1. Clipping from Japan Gazette 19 aug

2. " " Japan Herald 28 aug.

Enclosure 1. with Mr Swift's No. 40.

REPORTED INTERVIEW WITH COUNT OKUMA.

HIS RESIGNATION ADVISED BY VISCOUNT TORIO.

Says the *Nichi Nichi Shimbun* in its yesterday's issue: We have previously briefly reported that Viscount Gen. Torio, and Count Soeshima, Privy Councillors; Viscount Kaieda, Major-Gen. Harada, Senators, and Mr. Nishimura, Court Councillor, the leaders of the opposition to Treaty Revision, had an interview with Count Okuma, the Foreign Minister, at his official residence on the 14th instant and then discussed the question of the revised treaties with him. We are now able to publish the following further particulars as they were related to us. Some may think it strange that Viscount Kaeida should have been one of the visitors as it had been reported that he had ceased opposition and had come round to Count Okuma's way of thinking. But there is nothing strange about this as Count Okuma had told him that the conditions of the new treaties were not opposed to the provisions of the Constitution. While the Count believed so for a time he was not however wholly satisfied and therefore, in order that he might hear both sides, he accompanied Viscount Torio and the others on their visit to Count Okuma.

Count Soeshima opened the discussion by requesting Count Okuma to withdraw the diplomatic notes. To this the Foreign Minister replied "impossible" and nothing further passed between these two.

Viscount Torio then followed. He asked: Is it not a violation of the Constitution to employ foreign judges in the Higher Courts as provided for by the new treaties

Count Okuma: To employ foreign judges was of course opposed to the Constitution but now naturalized foreigners are to serve and therefore I do not think there can be any objection.

Viscount Torio: When you first proposed new treaties had you in mind naturalized foreigners? If the diplomatic notes contain the clause "those Europeans or Americans who are to be appointed Judges of Japan will have to obey the regulations of the respective Courts to which they are appointed on and after the date of their appointment" &c., I do not conclude that you meant naturalized foreigners at first. If, however, such was your idea I do not see that the clause just mentioned is necessary. How about this point?

Count Okuma did not answer.

Viscount Torio: Should it be stipulated by the diplomatic notes that these foreign judges sitting in Japanese Courts reserve the right not to be dismissed within four years except by way of disciplinary punishment the word *right* is to my mind a disgrace. The power to confer such a right is reserved to His Majesty the Emperor of Japan and yet the point is settled by diplomatic notes, to my great dissatisfaction. According to the Constitution a judgeship is evidently meant to be a life position but not in consequence of any right the judges possess; their appointment or dismissal rests alone with the Emperor. How about this point?

Count Okuma did not answer.

Viscount Torio: Should it be provided by the diplomatic notes that when there is dissatisfaction at the result of a mixed trial in the Court of First Instance appeal to the Court of Cassation is allowed without first applying to the Court of Appeal, a law has been introduced for the benefit of foreigners. If two modes of procedure—one for foreigners and one for natives—are to be introduced I don't say much about it, but if one law containing distinctions is to be applied I think it is highly improper. How about this point?

Count Okuma: Your opinion is very proper, but you must recognize the evils of extra-territoriality as very great and that in order to abolish these evils slight sacrifices in other respects must be made; in other words, we must buy the removal of extra-territoriality.

Viscount Torio: I have heard it is agreed by the diplomatic notes that the Codes of various laws should be perfected within five years, with an extension of two years and a half if impossible to complete within that time. The Codes are intended for Japan and therefore no interference on the part of outsiders should be allowed. The process to be followed is, I think, like tying a rope round the neck in order in make straight a crooked finger. How about this point?

Count Okuma did not answer.

Viscount Torio: It is specially agreed that to protect the interests of foreigners these judges shall be appointed. When viewed from the opposite standpoint the privileges of Japanese as provided by the Constitution seem to have been disregarded. Judging from these considerations the proposed new treaties seem to be prejudicial to the honour, profit and privilege of Japan. What do you intend to do regarding Treaty Revision? (at this point Viscount Kaieda asked Count Okuma: "How is it that your statements made to Viscount Torio to-day are quite different to what you told me the other day"? Count Okuma smiled and did not reply.)

Viscount Torio, continuing his question, said: Count Okuma, do you positively intend to bring these treaties into force?

Count Okuma: For my part the text of the new treaties seems to be best, so, of course, I intend to put the same in practice, of course dependent on His Majesty's sanction.

Viscount Torio: What! It is unbecoming. You refer to His Majesty the Emperor, but I do not see any chance of that as the conditions have been agreed to by His Majesty's Government. Truthfully, I do not believe you could do better than suspend Treaty Revision and resign your position. I am very sorry to say this to you but regarding the welfare of the country I cannot be silent. Torio came to advise your resignation.

Count Okuma: Thank you for your kindness but as I believe I am following the right policy I shall proceed.

Viscount Torio: Then if that is your decision I cannot say more. I believe that I have acted the part of a friend and in future shall not further discuss the subject with you. We will now be off.

The interview then concluded.

Duplicate, Enclosure 1.

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Viscount Torio: Should it be stipulated by the diplomatic notes that these foreign judges sitting in Japanese Courts reserve the right not to be dismissed within four years except by way of disciplinary punishment the word *right* is to my mind a disgrace. The power to confer such a right is reserved to His Majesty the Emperor of Japan and yet the point is settled by diplomatic notes, to my great dissatisfaction. According to the Constitution a judgeship is evidently meant to be a life position but not in consequence of any right the judges possess; their appointment or dismissal rests alone with the Emperor. How about this point?

Count Okuma did not answer.

Viscount Torio: Should it be provided by the diplomatic notes that when there is dissatisfaction at the result of a mixed trial in the Court of First Instance appeal to the Court of Cassation is allowed without first applying to the Court of Appeal, a law has been introduced for the benefit of foreigners. If two modes of procedure—one for foreigners and one for natives—are to be introduced I don't say much about it, but if one law containing distinctions is to be applied I think it is highly improper. How about this point?

Count Okuma: Your opinion is very proper, but you must recognize the evils of extra-territoriality as very great and that in order to abolish these evils slight sacrifices in other respects must be made; in other words, we must buy the removal of extra-territoriality.

Viscount Torio: I have heard it is agreed by the diplomatic notes that the Codes of various laws should be perfected within five years, with an extension of two years and a half if impossible to complete within that time. The Codes are intended for Japan and therefore no interference on the part of outsiders should be allowed. The process to be followed is, I think, like tying a rope round the neck in order in make straight a crooked finger. How about this point?

Count Okuma did not answer.

Viscount Torio: It is specially agreed that to protect the interests of foreigners these judges shall be appointed. When viewed from the opposite standpoint the privileges of Japanese as provided by the Constitution seem to have been disregarded. Judging from these considerations the proposed new treaties seem to be prejudicial to the honour, profit and privilege of Japan. What do you intend to do regarding Treaty Revision? (at this point Viscount Kaieda asked Count Okuma: "How is it that your statements made to Viscount Torio to-day are quite different to what you told me the other day"? Count Okuma smiled and did not reply.)

Viscount Torio, continuing his question, said: Count Okuma, do you positively intend to bring these treaties into force?

Count Okuma: For my part the text of the new treaties seems to be best, so, of course, I intend to put the same in practice, of course dependent on His Majesty's sanction.

Viscount Torio: What! It is unbecoming. You refer to His Majesty the Emperor, but I do not see any chance of that as the conditions have been agreed to by His Majesty's Government. Truthfully, I do not believe you could do better than suspend Treaty Revision and resign your position. I am very sorry to say this to you but regarding the welfare of the country I cannot be silent. Torio came to advise your resignation.

Count Okuma: Thank you for your kindness but as I believe I am following the right policy I shall proceed.

Viscount Torio: Then if that is your decision I cannot say more. I believe that I have acted the part of a friend and in future shall not further discuss the subject with you. We will now be off.

The interview then concluded.

Enclosure 2, with Mr Swifts No. 40.

THE following is the report of an interview with Count OKUMA by some representatives of persons interested in the question of treaty revision in Kyoto, on the 21st inst., as taken from the *Nippon*:—

After passing the compliments of the day, the representatives remarked that although in matters connected with diplomacy secrecy is necessary, yet it does not seem that it is required in the present case, the question in hand being a treaty of peace and amity. If possible, they should be glad to hear the particulars.

Count OKUMA replied that there was no necessity for keeping everything secret, but as the matter did not concern the Japanese Government alone but had also close relations with foreign powers who requested him to keep the matter secret, he could not very well help himself, although very reluctant to keep silence. As the question is an important one he had taken care to speak of it as much as possible when reporters come to him to obtain information, therefore he would also answer their questions.

Q.—What is the language to be used in the new treaty?

A.—Although French is generally used in the text of treaties, in the present case English and Japanese has been used. Even the treaty with Germany has been written in English.

Q.—Should a difference of interpretation occur between the Japanese and English texts, which would be taken to decide the matter?

A.—The English, although there is no express provision to that effect in the treaty.

Q.—It is said that it is stipulated in the diplomatic notes that the five codes will be published without fail within two and a half years from the date of putting the new treaties into effect. It is also said that it is provided in the notes that the five codes will be translated into English and published. Is this a fact?

A.—Only the five codes will be translated, but the other laws will only be published in Japanese, as there would be considerable trouble entailed in translating them. It will be quite sufficient if necessary points are translated from time to time.

Q.—We hear that extra-territoriality will be removed within five years, but should the five codes not be perfected and published within the time stipulated, it is said that it is provided in the diplomatic notes that it will be further postponed. Taking these circumstances into consideration, the removal of extra-territoriality is not to be hoped for, we presume, until the result of the codification of the laws is known?

A.—No, if the time provided for the publication of the codes be postponed, extra-territoriality cannot be removed until three years after the publication of the codes, but as the codes are now almost completed there is no fear that their publication will be postponed.

Q.—The investigations in connection with codification are said to have advanced considerably, but as the codes must agree with the manners and customs of the people, if the laws are codified in haste in consequence of diplomatic pressure, how can the people place dependence on them?

A.—The examination made in connection with the codification of laws was commenced in 1870, which shows that it has not been done hastily.

Q.—This may be, but it was not publicly spoken about until lately. We hear that the committee appointed for the examination of laws is working very diligently, and that they have set themselves to examine fifteen articles a day in order to carry the work through in time; if this is true much anxiety will be felt?

A.—No, it is not true.

Q.—It is said the customs duties will be increased to treble their present rate?

A.—Yes, they will be increased threefold.

Q.—By threefold do you mean that the rate of duty is fixed on each article so that the aggregate will be three times its former amount, or does it mean that, without distinction of articles, 5 per cent will become 15 per cent by the new tariff, or is there any limit set by the treaty and the tariff lowered or raised within that limit?

A.—The rate of duty is to be defined on all merchandise, and the aggregate amount is to be three times the present amount.

8.—What articles can be taken as illustrating the highest duties, and what are the rates on these articles.

A.—Sugar, wines, spirits and tobacco; on these the duty is as high as 20 per cent, while there are articles on which the present duty of 5 per cent has been lowered or the articles made duty free.

Q.—Is it not too much of a concession that no restrictions are placed on the privileges to be obtainable by foreigners? When we observe the state of our country it will be seen that our commerce and industries are in their infancy, it being only a few years since the country was opened, and there are apprehensions for the future, if the country is entirely opened in its present state. But as it is the common practice of foreign countries to to do so, we should not shrink from it. We hear, however, that in foreign countries some convenient restrictions are placed on what is granted to persons of other nationalities. For instance, the right of possession of real estate is not granted to foreigners in the United States except in eighteen States, and in England the same right was only granted 19 years ago. Even at the present day possession of vessels is not permitted to foreigners. In other countries greater or lesser restrictions are placed. Such being the case, is it not too much for us to open the country without any restrictions whatever?

A.—These were given in accordance with the principle of reciprocity. What is given to our people in other countries we must give to the subjects of the same power, so that what is not granted to Japanese we also on our part do not give. This is the common practice of civilized countries, and when the abolition of extra-territoriality is advocated, we cannot refuse them the above concessions.

Q.—If this is so, it must be said that we are obliged to be guided by the precedents established in foreign countries. If such countries as England and the United States can place restrictions to suit their convenience, and we cannot do likewise, then it must be said the treaties were contracted solely to suit their convenience?

A.—The Government have recognized the fact that in the actual condition of the interior no restrictions are necessary.

Q.—In case the Government recognize the necessity of providing restrictions on the privileges given to foreigners, could we establish restrictions? that is, without saying that as such and such are allowed to Japanese by a foreign power we should grant the same to foreigners according to the principle of reciprocity. Can we take the view that the Government should not grant privileges to foreigners unless at their convenience, allowing foreigners to act similarly towards Japanese?

A.—It can of course be done reciprocally, but it is not certain whether the revision of the treaties may not be affected or otherwise by so doing.

Q.—What is your idea of the probable effect on commerce and industries when the country shall be opened at large?

A.—That is a financial question and not a diplomatic one.

Q.—That is true, but is it not a thing to be carefully considered by the Government when a treaty is to be contracted with a foreign power?

A.—Yes, the matter must be considered in a diplomatic treaty. Now if foreigners should come in large numbers it would be well, but they will not do so. Even should they enter the interior and start industries, there is no hope of their being successful in competition with Japanese. They may start hotels, but I do not think they will start industries. The reason is that the rate of living is high, and consequently their salaries must be in proportion to their mode of living, while the Japanese, on the contrary, can live cheaply, besides being intelligent and industrious. Even considered from the point of capital, there are no business firms in Yokohama whose property is worth *yen* 500,000, they are merely carrying on a credit business.

Q.—There are foreigners who are actually making arrangements to purchase land in the interior. For instance, a foreigner proposed to purchase the entire hydraulic power of the Kyoto channel work. This may be taken as an illustration. Whether foreigners advance capital to the Japanese or the foreigners make use of the names of Japanese is not known, but the fact remains that there are Japanese merchants who are carrying on their business with foreign capital. If the country should be opened at large, it must be taken for granted that these merchants will enter the interior in large numbers. We do not understand the reason for the assertion that foreigners will not enter the country so much. As to the poverty or otherwise of foreigners, and that they will not start anything in the interior our views are different from yours, but we shall not argue the point. As the term of the new treaty is for 12 years, new treaties must again be contracted at the expiration of this term. At that time what will be the compensation given to foreigners for the removal of the foreign judges and the abolition of the restriction on the right of taxation: the interior being opened and unconditional privileges given them, what more have we to offer?

A.—Of course, at the expiration of the twelve years, new treaties must again be contracted, but in that event no new concession is necessary. If they will not agree to the removal of foreign judges and the cancelling of the restriction on taxation, we have only to notify them six months previous to the expiration of the treaty that on its termination no treaty shall be in existence between the two countries. This would suit the case so long as diplomatic intercourse were not broken off.

Q.—Is this due to the subsequent treaty not being contracted at the time the previous treaty expired?

A.—Yes.

Q.—If such is the case, the present treaty contracted in the era of Ansei expired long ago, in fact since 1872 no treaty is in existence? Why not make use of the principle to be applied twelve years hence to suit the present circumstances?

A.—It is impossible. The treaties contracted in the era of Ansei provided that one of the parties should propose the revision of the treaty by giving one year's notice, so that if an agreement is not arrived at it cannot now be helped. The new treaty is quite different. In it is a provision that if six months' notice is given previous to the expiration of the treaty it can be made void.

Q.—Even though it may have been expressed in the treaties that either of the high contracting parties to the treaty on giving one year's notice to the other may demand a revision, the term defined by that treaty expired in 1872, should not the treaty have been made void?

A.—Yes, if the demand had been made in 1872, it would have succeeded. But at the present day nothing can be done, circumstances not permitting the question to be brought up again.

This closed the interview and the parties withdrew.

Duplicate to Enclosure 2.

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A.—Of course, at the expiration of the twelve years, new treaties must again be contracted, but in that event no new concession is necessary. If they will not agree to the removal of foreign judges and the cancelling of the restriction on taxation, we have only to notify them six months previous to the expiration of the treaty that on its termination no treaty shall be in existence between the two countries. This would suit the case so long as diplomatic intercourse were not broken off.

Q.—Is this due to the subsequent treaty not being contracted at the time the previous treaty expired?

A.—Yes.

Q.—If such is the case, the present treaty contracted in the era of Ansei expired long ago, in fact since 1872 no treaty is in existence? Why not make use of the principle to be applied twelve years hence to suit the present circumstances?

A.—It is impossible. The treaties contracted in the era of Ansei provided that one of the parties should propose the revision of the treaty by giving one year's notice, so that if an agreement is not arrived at it cannot now be helped. The new treaty is quite different. In it is a provision that if six months' notice is given previous to the expiration of the treaty it can be made void.

Q.—Even though it may have been expressed in the treaties that either of the high contracting parties to the treaty on giving one year's notice to the other may demand a revision, the term defined by that treaty expired in 1872, should not the treaty have been made void?

A.—Yes, if the demand had been made in 1872, it would have succeeded. But at the present day nothing can be done, circumstances not permitting the question to be brought up again.

This closed the interview and the parties withdrew.

DIPLOMATIC BUREAU

DEPARTMENT OF STATE
SEP 25 1889
RECEIVED.

DIPLOMATIC BUREAU
SEP 26 1889

No. 41.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
SEP 25 1889

Legation of the United States.
Tokio Japan, August 30. 1889.

Mr Swift.
To the Secretary of State.

Subject.
Receipt of telegram dated Washington. August 22. 1889. and receipt of instructions Nos 11 to 18 inclusive.

No. 41. Legation of the United States.

Tokio Japan, August 30. 1889.

Hon. James G. Blaine.

Secretary of State

Washington, D.C.

Sir:

I have the honor to acknowledge the receipt of your instructions numbered respectively 11, 12, 13, 14, 15, 16, 17, 18 and circular instruction dated June 25, 1889. also telegram dated Washington August 22, and signed by Mr Wharton, which reads. "Negotiate new legation quarters."

I have the honor to be

Sir

Your obedient servant,

John F. Swift

DEPARTMENT OF STATE
OCT 7 1889
RECEIVED.

✓ Am. 10007

No. 42.

Legation of the United States,
Tokio, Japan, Sept. 6, 1889.

Mr. Swift
To the Secretary of State,

Subject;
Treaty Revision in Japan.

No. 42.

Legation of the United States,
Tokio, Japan, Sept. 6. 1889.

Honorable James G. Blaine,
Secretary of State,
Washington,

Sir,

I feel confident that you will have gathered from the despatches upon the progress of Treaty Revision in Japan, I have heretofore had the honor to transmit to you, that the opposition Party are disposed to make the stipulations for the appointment of foreign jurists, to be judges in the new courts, one of their strong points of objection, to the Treaties recently made. The stipulation

referred

referred to will be found in one of the diplomatic notes appended to our own Treaty of Feby. 20, 1889, and is contained in the Treaty made with Germany June 11th, though not in the one since made with Russia, the Representative of that Power having voluntarily waived or declined it. The opposition to the agreement is understood to come from patriotic Japanese, who think that it would be a humiliation to their country, for foreigners to sit in judgment in the courts of Japan. It is to be observed, however, judging from the native press, that the public opposition is directed to the point that to permit foreigners to hold office in Japan would be

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a violation of the new Constitution which certainly does provide that Japanese subjects shall hold the offices.

As the new Constitution has not yet come into operation and will not till next year, this contention seems at least a little premature. And there is no doubt that the true motive of the opposition, is the sentimental one I have just named, and that if the constitutional difficulty were to be removed, the opposition party would merely fall back upon points in reserve.

In answer to this contention of the opponents of treaty revision, who, by the way have become exceedingly clamorous, it is understood the government are disposed to deny that it is

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the intention to appoint actual foreigners to these posts, but that the "foreign jurists" stipulated for, are to become naturalized Japanese subjects, as a condition precedent to the appointment.

Whether this concession to popular demands, will satisfy the party of opposition, I am unable to say. It is not in regard to that view that I mention it, but rather as to the effect upon American interests, in which connection it is deserving of your attention.

I cannot for a moment think this was the understanding of the American Representative, in appending his signature to the Treaty. The stipulation briefly epitomized is; that a number of "foreign jurists" will

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be appointed in the Supreme Court (Daishin In) and that cases in that tribunal, (to which all litigation of a certain magnitude may be taken) when American citizens are interested as defendants or accused, a majority of the judges hearing such proceedings, shall be of European, or American origin. This is what our Treaty calls for, and if foreign jurists are in any manner necessary for the protection of Americans as to matters of life, liberty or property, a question upon which I shall refrain from expressing an opinion, then the concession, which for reasons I have heretofore explained, is only a partial and imperfect one at best, will under this interpretation be materially impaired and diminished in its efficiency.

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In a former despatch, my No. 35, I took the liberty of pointing out to you, how inadequate is even consular jurisdiction to cover and protect, a considerable class of rights belonging to Americans in Japan, and dependant upon wise laws and just adjudication, namely; in that class of cases, where our citizens are neither <u>defendants nor accused</u>, but are seeking a remedy <u>against</u> Japanese who may have injured them in person or property. In such cases consular jurisdiction furnishes no remedy. I do not intend to say that the Americans have suffered any detriment in this respect, nor do I mean that they have not, I simply express no opinion. It is a question quite apart from an examination of the matter under consideration.

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It is enough to say that in all such cases, Americans in Japan, are now under Japanese laws, and subject to Japanese courts. And that under the new treaty their risks, if there are any risks, even in this respect will remain the same inasmuch as under the new Treaty all demands of Americans for judicial remedy or redress against Japanese may so far as the Treaty is concerned be passed upon by tribunals composed wholly of Japanese and of course under Japanese laws.

The objections American citizens are likely to make to the claim that the "foreign jurists" who are to act as judges when they are defendants or accused should first become Japanese subjects by naturalization, will scarcely require to be pointed out. While it will hardly be contended that no lawyer fit in

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point of character and learning to fill the place would accept it upon such terms, it does seem that the conditions would tend to materially narrow the field of selection, especially as to Americans.

Our laws distinctly recognize the right of expatriation. Any citizen may voluntarily denationalize himself.

It follows that if an American jurist should for the purpose of qualifying himself for the Japanese bench, renounce his allegiance to his country, or perhaps who should in any manner become a naturalized Japanese subject, should he at the end of his employment desire to resume his original citizenship as an American, he would have to become naturalized in the United States, undergoing the five years probation and taking all the other steps

required

required of foreigners by birth.

It was much as the same result would come of a condition requiring American lawyers to denationalize themselves in favor of any other country, it is no disparagement to the Japanese Emperor or people, to suggest that this would restrain a great many from accepting the place, and among those it might happen that jurists of the highest character, otherwise willing to act, would consider themselves shut out from competition.

It is understood here, that the laws of Germany permit something like a temporarily divided allegiance, on the part of its subjects domiciled abroad, and that the other leading European states do not. This is likely to lead to the "foreign jurists" being chosen from Germany. The newspapers

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native and foreign, have been for some time past publishing the statement that M. Boissonarde de Fontarabie is about to become a naturalized Japanese subject. All these circumstances point to the probable selection of that gentleman as one of the foreign judges, the remainder to be taken from Germany. In this connection I refer you to a clipping from the Jiji Shimpo, a paper of high character, annexed herewith, which seems to confirm this view.

It is to be observed that the foreign jurists are not to be appointed for life or during good behaviour. Their terms are a fixed tenure of not less, and presumably not more than four years, and removable for cause, of which cause the Japanese authorities are the sole judges. This

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is not only a very brief, but a very uncertain tenure as well.

Nothing, scarcely even justice itself, is so important as to have litigants believe they have been tried by a fair and unbiased tribunal. It would be difficult for judges so conditioned, to convince Americans that such a result had been reached, and every lost suit, would be retried at this Legation, and become the subject of diplomatic inquiry.

I cannot help believing that if it had been thought advantageous to American interests, that a portion of these jurists be chosen from the American bar, direct and without naturalization, the Treaty could have been easily so arranged, by asking for it. It would certainly have given our citizens residing in Japan, a feeling of confidence

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they will otherwise hardly have.

During his entire diplomatic career, Mr. Bingham zealously and faithfully championed the cause of Japan for autonomy, against the united resistance of the very Powers, who are now likely to appropriate the complimentary advantages that should have fallen to his countrymen without asking.

My immediate predecessor, Mr. Hubbard, pursued the same course.

If representation upon the bench is not necessary to American protection, it at least would have given them a feeling of security, tending to encourage them in their enterprizes, and, if such a thing can be earned, Mr. Bingham and Mr. Hubbard have earned it for them.

Another question considerably discussed

discussed in diplomatic circles at this capital, and worthy of your attention, is as to the actual jurisdiction of these foreign jurists, while sitting as judges in the Supreme court. That the Diplomatic notes are so drawn as to be susceptible of two different interpretations, is a serious fault. And it is certain that this has occurred, and that the wording has given rise to two different interpretations. Of these interpretations one is: That the proposed system hinted at in the note gives to American citizens, when defendants or accused, the alternative of going through the various degrees of jurisdiction, from courts of 1st Instance to courts of Appeal, or at their option of going direct to the Supreme Court to be there judged at once, both in "first and last instance", in which

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case the Supreme Court would try all issues of law and fact, the litigation commencing and ending there; and

II; That the "proposed system" simply intends to outline a general plan for the Courts of Japan, in which minor cases are not to go to the Supreme Court. That all other cases may be taken on appeal, from the Court of First Instance, to the Supreme Court, for "error of law" exclusively. And that certain exceptional cases, as possibly political crimes, may be tried in first and last instance, by that court only, and that for such exceptional cases it is to have what we call original jurisdiction, as well as final or appellate. The last clause of the diplomatic note in declaring as it does that the measure has been adopted

primarily

"primarily for the purpose of improving
"the judicial system of the Empire", would
indicate that this latter, is the view that
will be taken by Japan.

Not having been instructed by you
so to do, I have not felt justified in in-
quiring of Count Okuma, as to his inter-
pretation of the clause, nor indeed to
converse with him upon the subject of the
Treaty. I have therefore no
direct information, but from a source I deem
entirely reliable, I fear that the Japanese Govern-
ment, will contend for the last of the two
interpretations above named, and that
issues of fact will be determined in
courts of "first instance" or of original
jurisdiction as we should call them in
America, and by Japanese judges only.
The foreign jurists being limited to

appellate

appellate jurisdiction upon errors of law alone. However this may be, certain it is, that if there is any question about the quality of Japanese law, or the learning, wisdom or integrity of Japanese judges, then the one burning question for American citizens resident in Japan, comes to this; Are foreign jurists to have cognizance of issues both of law and fact; or are they limited to appeals upon errors of law only?

It must not be forgotten that almost the entire jurisprudence, as well as the entire judiciary of Japan, stipulated for in the new Treaty, are still things absolutely of the future. The codes exist only in part, and the courts do not exist at all. What they will be, we can do no more than guess at, and

and to venture upon guessing, would be wildly risky. The diplomatic note refers to the "Daishin In," which it translates, as the Supreme Court. When American citizens are defendants in that court, a majority of the judges are to be of European, or American origin. In all other courts, the judges will presumably be Japanese. There is no stipulation in distinct terms, that these mixed courts, shall have exclusive jurisdiction, original and appellate, as to Americans when accused, or defending. On the contrary, it would seem, that at least the Japanese, may construe the Treaty to mean, that they are to take their way through the courts, the same as Japanese subjects till they reach the "Daishin In", where, when their

Cases

cases are heard, there is to be a majority of "foreign jurists" present.

It would seem fairly to be inferred, that the Japanese court will finally determine all issues of law. As to that there can be no dispute, and it is good as far as it goes. But what does that avail a man, if the facts have been settled against him?

If any American citizen is accused of slaying a man with a pistol bullet, and there is a conflict of testimony as to who fired the pistol; will these "foreign jurists" weigh the testimony and say guilty or not guilty of the fact?, and are they to find what his motives were in firing; whether wantonly and maliciously, or in self defense? I do not intend to underrate the value to society, of a just salutary and uniform construction of the law as

as it exists, which is about all the best and most perfect Courts of errors and appeals can accomplish. But when a man is accused of a crime, and his life or liberty is in jeopardy, the question that most concerns him is, to have an honest, intelligent and above all things, an unprejudiced man, or body of men, to hear the testimony, weigh it, and ascertain the facts of his case. Without that, no amount of wisdom, integrity or learning in the construction of the law, can be of much help to him.

The diplomatic note speaks of proceedings in "first" and in "last" instance. In "first instance" may be assumed to be the stage, at which the facts of a case, are ascertained and settled. And "in last instance

instances," to be proceedings on appeal against the judgment for its cassation or quashing or what at common law we should call, its reversal. Are the facts to be retried in the "Daishin-in", or must the defendant move for a new trial in the Court of "first instance" on errors occurring at the trial, or because the decision was against ~~——~~ the evidence?, the Supreme Court only looking into the record as it comes up. I confess that to me the latter appears the more reasonable construction, and that if the Japanese make that contention it will be hard to logically combat. Under English and American systems, the appellate court will not inquire, as to the weight

of

of testimony. If there was any testimony in the lower court whatever to sustain the verdict or finding they let it stand. This is the American system, and why shall it not be the Japanese? Under such a system a learned, honest and unbiased judge in the court below, whether trying the facts as Chancellor, without a jury, or at common law with one, is essential to the due administration of justice. In the first case his finding of fact in all cases of conflicting testimony is final. And in the second, he alone can set aside the verdict of a jury where there has been conflicting testimony. The court above, for reasons that are familiar to every lawyer, never interferes under such circumstances, and the injury done

done by an unjust, or corrupt finding of fact by the court itself, is substantially without remedy.

And if by a jury the judge setting at Nisi Prius and who heard the testimony and watched the demeanor and bearing of the witnesses, can alone disturb the verdict when the testimony was conflicting. The appellate court can do nothing.

It is conceded that the scheme of Japanese jurisdicture about to be created, does not embrace anything in the nature of a jury. In the employment of the French Law Professor M. Boissonade de Fontarabie to perform the role of the Tribonian of Japan, it was to be expected that civil law models would prevail, and that there would

would be no jury.

To men of Anglo-Saxon origin this is a serious deprivation. And it is a deprivation which I think our citizens could have been saved from, so far at least as their own rights were concerned. It is my opinion that something like the old English jury de medietate linguae — for the trial of accused foreigners, had it been applied for at the proper time, could have been secured as a treaty right, for our people, inuring to the benefit of all foreign residents in Japan, that it would have proved a valuable safe guard for them, and in time might have benefitted the Japanese people by inclining them to the jury system.

I base these opinions upon the

Conditions

conditions existing when the treaty negotiations commenced and while they were carried on, at the beginning of the present year, and before the representatives of the other Western Powers following in our supposed lead, had concluded treaties similar to our own. Then as now, there prevailed in Government circles at Tokio, apparently the best of feeling towards our country. In addition to this ~~the~~ secession ~~from~~ off our Representatives the then existing joint accord of powers, was of immense advantage to Japan, and in fact an essential prerequisite to the serious commencement of treaty revision. Without this nothing could have been done. This position ought not to have been used to the disadvantage of Japan,

and

and it certainly was not so used. The Treaty was accepted substantially as it came from them. But the situation could have been wisely and justly used for Japanese benefit. And as anything must benefit Japan, that tends to protect from danger and render more secure, a class of worthy people resident in and subject to the vicissitudes of life in the country, during a period that is recognized as transitory and experimental to a degree hardly paralleled in the world's history, which is precisely the case of the American citizens resident in this country, any measure tending to safely tide over for them, this "<u>un avais quart d'heure</u>" of political experiment, would benefit Japan and should have been acted upon.

Such

Such measures of assurance and protection, could not injure, and ought not to humiliate Japan, and so, had the point been made and fairly explained, the Japanese statesmen must have come to regard it. There is no reason to think that the Japanese Plenipotentiaries, are scheming to gain an advantage over any other Power, least of all over the United States. They are not seeking jurisdiction over foriguers, for the sake of oppressing them, but from a genuine desire to release their country, from what they regard as a humiliating position.

If there exists, or is likely to arise, any state of things by which our people resident here, will be mistreated or injured by the executive or judicial

authorities

authorities, or in any manner whatever, it will not be the fault of the honorable and distinguished Japanese states-men who have negotiated the new Treaties, but will be the natural and necessary result of long existant conditions, for which they are in no wise responsible, the character and tendency of which they have only partially understood, which were beyond their control had they fully understood them, and which it is probable they sincerely think to have substantially passed away even if they quite believe they ever did exist.

There is no manner X of doubt that the Government officials of Japan, are thoroughly and in good faith imbued with the belief, that

some

some time in the early part of the coming year, when the new Constitution goes in force, and the new Parliament is elected and begins to legislate, and the new codes of M. Boissonade de Fontarabie are finished and promulgated, and the new courts established and set at work, and the old system formally and ceremoniously abolished and done away, and a few other trifling details completed, Japan will as to liberty safety and security for all within her borders, native and stranger, stand abreast of the the United States Great Britain or any other Constitutional country. This is all to be done on a fixed day and moment, April 1st, & think, and Japan as if touched by the wand of a magician, is to take

on

on a new character, to clothe herself
in a new Constitutional uniform,
and step into line with the most ad-
vanced states of the earth.
And if in the Treaty of Feb.y. 20. 1879
American citizens resident in Japan,
have not secured a reasonable measure
of protection from the ill effects of crude
and oppressive decrees and executive rul-
ings, or from personal maltreatment,
or domiciliary abuse by an overbearing
police, certainly not rendered less arro-
gant by the continuance of the ancient
custom of expecting humble Japanese
at the police station to prostrate themselves
and only speak while in a suppliant
position, or from the actual peril of
being tried by a ——————— preju-
diced anti-foreign judge, it is

because

because the Japanese Cabinet and Plenipotentiaries, who tendered to our Representative the Treaty in it's present form, believed that no such evils would exist in Japan after the 1st of April 1890, and because our Representative in signing it without change, was of the same opinion. Had he thought there was possible danger that Japanese judges in trying and determining issues of fact, might not always do so honestly and wisely, and had demanded to have it clearly expressed that accused American citizens, should have the facts of their case, as well as the law settled by judges, or even by a jury composed in part of their countrymen, & have every reason to think it would

at

at that time have been promptly conceded. Any notion that such a concession would have been derogatory to Japanese sovereignty, could have been answered by reference to the historical fact, that as high spirited a people as the English, always tried foreigners accused of crime, by a jury composed in part of foreigners, and that to convict, a verdict must have been unanimous.

How it would be, if such a demand were to be made now, after other Treaties have been concluded, especially with states of such power as Germany and Russia, does not seem so clear. I do not intend to assert, that a mixed jury for the trial of facts, is necessary to the protection

of

of Americans in Japan. I am giving no opinion one way or the other. It is a matter upon which you are as fully capable of forming a correct opinion, if not more so, than I am.

But that during a certain transitory or probationary period, it is not safe to subject American citizens to Japanese jurisdiction, and that they do require for their protection certain special methods of adjudicating accusations against them, seems by the logic of what has been done, to stand as confessed by both parties to the Treaty.

If the precautions of "foreign jurists" admitted to have been agreed upon, were not necessary why were they thus conceded in the Treaty as tendered by the Japanese Government to our

Representative

Representative? And if "foreign jurists" are necessary in order to reach just conclusions where American citizens are accused of crime in Japan, why should there be any doubt as to their power to hear the testimony, and determine the facts of the guilt or innocence of the accused?

If Japanese judges of the highest character and broadest learning, are not to be trusted to decide upon the law when Americans are accused, as is confessed by providing for a majority of foreign jurists to overlook and outvote them, how can justice be hoped for upon the crucial question of fact as to ~~action~~ and motive, if these are to be determined by Japanese occupying inferior positions, and presumably

of

of inferior character and learning, with no foreign jurists present.

While I do not offer an opinion upon the necessity for protecting our countrymen, by providing them with either a court or jury composed in whole or in part of foreigners, accustomed to Western modes of thought and action, for the trial of the facts of their guilt or innocence when accused; yet I will venture to suggest a few circumstances that may assist you in arriving at a conclusion.

Whatever may be the present state of feeling in Japan, it is certain that the antagonism on the part of Japanese to foreigners from Europe and America, up to a period representing no more than half the life

time

time of a single generation, was so strong and aggressive that the lives of that class of residents, were in considerable danger. Many of the individual Japanese, who participated in and were moved to action by that sentiment, some of whom went so far as to attack and even to injure foreigners, are still existant and have not passed beyond the prime of life. It is currently reported and is possibly true, that at least one of the men who participated in the slaughter and horrid mutilation of an Englishman, upon which occasion a lady in his company was wounded and barely escaped the same fate by the fleetness of her horse, now occupies an

important

important official position of honor and trust, under the Government in this Capital. And it does not reduce the significance of the circumstance, but rather adds to it, that the individual referred to was then and still is, a man of acknowledged worth and respectability.

I do not mention this circumstance for the more sake of reviving a disagreeable incident, but to illustrate a condition.

There is no doubt that the conditions under which that deed was committed have practically passed away, and that a similar one is not likely to occur.

But there is a wide distinction, and a vast gap to fill up, between

a

a state of feeling by which out of pure patriotism and loyalty to country, a foreigner is ripped up and hacked to pieces, for standing in the highway, and that broad and catholic humanity, that can sit in a tribunal, and hear without bias, and adjudge without prejudice, the guilt or innocence of another foreigner, when accused of crime.

It may be true, that considered as a political party the anti-foreigners are no longer influential in Japan, but it is true, that they still number in their ranks some of the wealthiest and most powerful men in the Empire, that as individuals, anti-foreigners are not excluded from participation in public affairs, and that when possessing the necessary

necessary qualifications, they are equally with others eligible to places upon the bench, or at the bar. These, or at least some of them, are reasonably liable to find seats in the new courts as judges, and within the next few years are almost certain to have the authority to adjudicate upon the rights of American citizens, and will be called upon as a part of his official duty, to decide as to their guilt or innocence.

* The new Japanese Constitution is no doubt an admirable instrument, when due account is taken of the circumstances of its grant by the Emperor to his subjects. But it may be searched through in vain, for those great charters and guaranties of life, liberty and property to be found in

in the Constitution of England extorted from King John, or with which our own people of their own free will, have chosen to clothe themselves, such as habeas corpus, trial by jury, and other privileges upon the same lines too numerous to mention.

They are in the main not only not granted in the Japanese Constitution, but are so scarcely known, or thought of by Government or people. *

It seems to be conceded that there is at present no law permitting of the torture of accused persons. Indeed it may have been prohibited by positive enactment. But in any case the change is recent, and the men who have practiced it, are still in executive and judicial authority.

It

It is said to be occasionally resorted to by the police without law.

The codes of Western law to be adopted between now and next Spring are still in nubibus and hardly the safe subject of a guess. The copies are studiously kept from the public and the native press is not allowed to comment upon them. M. Boissinade de Fontarabie, their author, is for the moment absent in France, but he is understood to be in communication with the Government by telegraph and furnishes in that rapid manner the benefits of his learning and wisdom as needed, along with any new or improved thoughts upon jurisprudence that may from time to time occur to him.

But this is all we know and we do

not

not even know this exceptly darkly.

The courts are not any further advanced towards construction so far as we know of, and as for the bar, that certainly is yet to be created.

There are — schools of European law, it is true. But the time of the students of jurisprudence must of necessity be largely taken up in acquiring the language in which European law is written, with but little left for the study of the science itself.

In my former despatches advising you of the opposition in Japan to the Treaties, I have uniformly given my opinion to the effect that in spite of it the Government was likely to proceed with treaty revision to a final consum-

mation

nation. I now have reason to doubt the correctness of that opinion.

The opposition is far more serious than any one supposed possible. Repressive measures have been resorted to of some severity. Newspapers opposing treaty revision have been suspended, and meetings suppressed, but the resistance goes on in spite of all, and increases in activity and strength. Appearances at this time indicate that the whole matter may be indefinitely postponed. I am now inclined to the opinion that this is the more probable result.

I have the honor to be, Sir,
Your obedient servant,
John F. Swift

Enclosure

Enclosure – Japan Gazette's translating from Ji Ji Shimpo. (Gazette of Sept. 6, 89)

Enclosure with Mr Swift's No. 42.

THE *Jiji Shimpo* alluding to the proposed naturalization of the foreign lawyers who will occupy seats on the Japanese Bench according to the stipulations of the new Treaty remarks that only attractive offers will cause these foreigners to forego their nationality, but points out that what will seem enormous to Japanese will not appear quite such a pot of gold to Europeans. Our contemporary states that the Government is treating with M. Boissonade de Fontarabie, Dr. Paternostro and two German gentlemen. It is believed that the first named gentleman has come to terms.

TELEGRAM RECEIVED. Cipher

2d ASSISTANT SECRETARY.
confirmed Sept 11
SEP 9 1889

From U.S. Legation in Japan.

Tokio, Sept 9 1889.

DIPLOMATIC BUREAU.
SEP 9 1889
Received 9.00 A.M.

Blaine.

Washington.

Assistant Secretary of Legation was required. Will you appoint George A. Wentworth of San Francisco.

Swift.

acker. Sept 9. 89.

Errors due abbrev. key.
Wm R. Gardiner Jr. of Ind. 2d Secy.
Last appointed 3 Sept. 1889.

Send above 11/89

Sept.

Conf.

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BUREA
OCT11 1889

No. 1.

Mr Kuechler for

Legation of the United States.
Tokio Japan, Sept. 15, 1889.

Mr. Dun.
To the Secretary of State

Subject.
Statement of account for salary for the period beginning July 1st. and Ending September 15, 1889.

Legation of the United States.
Tokio Japan, September 15: 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to enclose, herewith, a statement of my account for salary for the period beginning July 1st 1889. and Ending September 15th, 1889, both inclusive.

On the latter date, as Second Secretary of Legation, my salary ceases.

I have the honor to be
Sir
Your obedient-servant
Edwin Dun.
Second Secretary of Legation.

Mackhorn for

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BUREAU.
OCT 11 1889

Legation of the United States,
Tokio, Japan, Sept. 16. 1889.

Mr. Mansfield
To the Secretary of State.

Subject
Account for salary.

T. M.

Legation of the United States,
Tokio, Japan, Sept. 16, 1889.

Honorable James G. Blaine,
Secretary of State,
Washington,

Sir,

Edwin Dun, Esq. having
on telegraphic authority from the
Department of State this day taken
the oath of office and assumed his
duties as Secretary of this Legation,
thereby relieving me, I have the
honor to enclose statement of my
account for salary up to the date
of my being relieved -, Viz. Jul 1 to Sept 15.

I will have the honor to draw
for salary while in transit to my
residence

residence at Tyler, Texas, on my arrival there, which draft I beg you will honor,

I have the honor to be,

Sir,

Your obedient servant

Fredk. S. Mansfield

Ex-Secty of Legation,

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BUREAU
OCT 12 1889

2D ASSISTANT SECRETARY.
note & file.
aab
OCT 11 1889

Legation of the United States,
Tokio Japan. Sept. 16. 1889.

Mr. Dun,

To the Secretary of State,

Subject;

Accepting appointment as Secretary of Legation, has qualified and entered upon duties of his office.

Legation of the United States,

Tokio Japan, September 16, 1889.

Hon. James G. Blaine,

Secretary of State,

Washington, D. C.

Sir:

As authorized by the telegraphic instruction, dated Washington, September 7, 1889, from Mr. Adee, Acting Secretary of State, to Mr. Swift, United States Minister to Japan, informing him that I had been commissioned first Secretary of this Legation, and instructing that I should take the oath and that the same be sent to you, I beg leave to acquaint you that I gratefully accept the appointment and that I have qualified and have entered upon the duties of my office.

I have the honor to be,

Sir,

Sir, —

Your obedient-servant,

Edwin Dun.

Secretary of Legation.

From U. S. Legation to Japan

DEPARTMENT OF STATE
SEP 28 1889
RECEIVED.

2D ASSISTANT SECRETARY.
Ans. as per memo attached.
SEP 30 1889

Burnham, Somerset, England
September 17th 1889.

DIPLOMATIC BUREAU.
SEP 30 1889

Hon. James G. Blaine
Secretary of State
Washington.

Free entry requested Oct. 28 1889 Cor. Ltr

Sir:

I beg leave to request an extension of sixty days of the "leave of absence of two months with permission to visit the United States," kindly granted me by the Department, and upon which I set out from Japan June 26th last.

I have made arrangements with D. Thompson former Interpreter of the Legation, and with a Japanese assistant, to continue to perform my duties during the additional time of my absence, without expense to the Government, and have the honor to enclose in support of my request, the written concurrence of Mr. Swift, the Minister, given me at the time of making the original application.

I make this request for an extension of my leave of absence because we are anxious to remain with my wife's parents here in England as long as possible, as they are quite elderly, and owing to the length and expensiveness of the journey, we may not be able

to

to visit them for some years to come.

If the extension is granted I shall be enabled to remain here until October 26th, and intend then return to Japan via the United States.

I have the honor to be

Sir,

Your obedient servant

Willis Norton Whitney

Interpreter of Legation, Tokyo

London Address, 312 Camden Road. North

Enclosure. Mr. Swift letter concurring in application for additional leave of absence.

Legation of
the United States
of America.
numbered

Tokio, June 20th 1889

Hon. Jas. G. Blaine
Secretary of State
Washington.

Sir:

Dr. Whitney, interpreter of this Legation upon applying to me for my approval of his application for leave of absence, since granted him for two months with permission to visit the United States, stated, that owing to his desire to visit, in company with his wife and children, his wife's parents, residing in England, as well as his own relatives in the United States, it would be necessary for him to apply for an extension

extension of his leave of absence for two months longer. As Dr. Whitney has provided free of expense to the Government, a competent substitute, Dr. Thompson, formerly interpreter of this Legation, and also a Japanese translator in approving his original application for leave I also approve his application for an extension of two months longer, whenever he shall make it, and trust that the Department will kindly grant it to him.

I have the honor to be

Sir

Your obedient servant.

John F. Swift

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLO BUREA
OCT 12 1889

oath filed with Mr Bartow
Oct 12 1889 Clerk
✓ Oct 3 14 over

No. 43.

2D ASSISTANT SECRETARY.
Note date -
File oath -
Ack by subject -
OCT 11 1889

Legation of the United States.

Tokio Japan, Sept. 17, 1889.

Mr Swift:

To the Secretary of State.

Subject.

Mr Dun's appointment as Secretary of Legation. He has qualified and entered on duty.

No. 43. Legation of the United States.
Tokio Japan, Sept. 17, 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of a telegram dated Washington, Sept. 7, 1889, which reads as follows:—

"Edwin Dun commissioned First Secretary, have him take oath and forward here, Adee Acting Secretary."

In compliance with this telegraphic instruction, I beg to inform you that on the 16th instant, I administered to Mr Dun, and he signed, the official oath prescribed by law, the original

7

of which oath I enclose herewith, and that on the same day he entered upon duty in the capacity of Secretary of this Legation.

I have the honor to be

Sir.

Your obedient servant.

John T. Swift

Enclosure

Original oath signed by Mr Owen and administered by Mr Swift.

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BUR
OCT 12 1889

No. 44.

Legation of the United States,
Tokio Japan Sept. 17, 1889.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
OCT 11 1889

Mr Swift.

To the Secretary of State.

Subject:

Receipt of telegraphic instruction of Sept. 9. 1889. Mr Gardiner appointed Second Secretary of this Legation.

No. 44. Legation of the United States.

Tokio Japan, Sept. 17. 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of a telegraphic instruction which reads as follows:—

" Washington, Sept. 9. 1889.

" Swift, Minister, Tokio,

" William R. Gardiner of Indiana

" appointed Second Secretary,

" Adee acting Secretary."

All at this Legation will receive Mr Gardiner with a cordial welcome.

I have the honor to be
Sir.
Your obedient servant,
Joseph Swift

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BU
OCT 12 1889

2D ASSISTANT SECRETARY.
See marked passage p. 7. and ans. as directed
OCT 11 1889
aak

V and oct 17

V No Prom 16 oct.

No. 46.

Legation of the United States.
Tokio Japan. Sept. 18. 1889.

Mr Swift:

To the Secretary of State

Subject:

Mr Swift's telegram of Sept 9. 1889. and clerical work of this Legation in connection with local passports.

No 46. Legation of the United States.
Tokio Japan, Sept. 18. 1889

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

In explanation of my telegram of the 9th, inclant asking for the immediate appointment of a second Secretary to this Legation as a matter of urgency, I avail myself of this opportunity of reminding you of a very considerable amount of clerical and discretionary labor performed at this Legation from which other American Legations, I believe, are exempt; and which — Exceptional Labor does not show in the correspondence with the Department.

I

I refer to the matter of procuring the necessary passports permitting American citizens to travel and sojourn in Japan beyond the Treaty limits.

The Japanese Government is exceedingly strict in requiring these passports. They are only granted to those who travel for health or scientific research as a matter of favor, not being provided for in the treaties, and only upon direct application of the Minister in each case. They are only good for six months, at the end of which time they must be returned and a new one issued on application. The application must state the purpose of travel, whether for health or scientific research, the precise route the tourist intends

intends to take, with each place he purposes to stop at, with the utmost precision and exactness.

The police are very jealous and strict in calling for passports from the tourist directly he reaches a town.

At the railway stations it is often required before a ticket will be issued. Persons traveling beyond the treaty limits are sometimes detained several days and in some instances weeks for the necessary permission to travel through the country.

It is generally the case with tourists and newly arrived residents, that they do not know the routes nor the names of the places they wish to visit.

This

This devolves upon the Legation the duties of a bureau of intelligence and traveling itinerary. Should we not promptly furnish them the information required, the time necessarily consumed in getting their papers, which at best takes from one to three days, might be dragged out to two or three times as long to the annoyance, discomfort and actual damage of our fellow citizens passing through this part of the world.

Any American, male or female, found any place out of the treaty limits without a passport or in any place not named in his or her passport is liable to arrest and whether arrested

or

or not is in every case prevented from further travel and required to return at once to the nearest foreign Concession. Each American citizen residing in Japan keeps a semi-annual passport all of the time and as the line of travel specified in each passport is very limited, citizens residing in the country, as well as tourists, are constantly applying for fresh papers specifying new routes as changing exigencies require.

The constantly growing tide of tourists to this part of the world, steadily increases the work of the Legation. Each tourist, on his arrival, finds a passport indispensible and as they are in a hurry, they are naturally anxious

anxious to have the necessary papers permitting them to visit the interior, with as little delay as possible. This involves, on the part of the Legation, a careful and discreet examination as to the nationality of the applicant. The fact that once a resident or traveler is recognized as an American citizen, by the Minister, renders such recognized citizen, subject to American Consular jurisdiction and gives him a claim for diplomatic protection, calls for extreme caution on our part in passing upon these applications. The consequence is an extensive and diversified correspondence with the applicants themselves, as well as a letter and special

Messenger

messenger service to the Foreign Office in asking for the passports and returning with them. In fact it is within bounds to say that the passport work of this Legation, of which no report is made to you, requires fully as much actual labor, both routine and discretionary as the regular diplomatic correspondence with the Department of State. There does not seem to be any law imposing this duty upon the Legation. It appears to have grown up out of the necessity of the case. But I find that if it is not attended to with the greatest diligence and promptness, even to the neglect of

other

other work there is as much dissatisfaction and criticism as if the Legation had been established for the sole purpose of obtaining passports to enable our energetic countrymen to travel about the country.

I have endeavored to comply as promptly as possible with all applications and shall continue to do so. But I feel that I am justified in calling your attention to the large increase of work, thus imposed upon our clerical and messenger force.

I have the honor to be

Sir,

Your obedient Servant,

John F. Swift

From U.S. Legation to Japan

Personal Inst. Sent. Sept 26/89

Troy House. DIPLOMATIC BUREAU.

DEPARTMENT OF STATE SEP 26 1889 RECEIVED. SEP 26 1889

DANIEL GALE, - - - Proprietor.

Troy, N.Y., Sept. 19, 1889.

To the President,

In accepting the appointment to be Second Secretary of Legation to Japan, allow me to express my sincere thanks for the honor and regard shown my father and myself. Owing to an attack of sickness and later a trip here it was impossible for me to accept earlier, but I now take great pleasure in doing so, as I shall take pride in discharging my duties.

Again thanking you,

Very respectfully,

W. R. Gardiner Jr.

DEPARTMENT OF STATE
OCT 11 1889
RECEIVED.

DIPLOMATIC BUREAU.
OCT12 1889

Printers
Oct. 14 Cir'lar

No. 46.

2D ASSISTANT SECRETARY.
Complyd with. Oct. 14
aak
OCT 11 1889

Legation of the United States,
Cir'lar
Tokio Japan. Sept; 20, 1889.

Mr Swift;

To the Secretary of State.

Subject:

Requisition for new set of pouch keys and supply of despatch, and type writer paper.

No. 46. Legation of the United States.

Tokio Japan, Sept. 20. 1889.

Hon. James G. Blaine

Secretary of State

Washington D.C.

Sir:

I have the honor to make requisition on the department for a complete set of new keys for the department mail pouches. The old set at this Legation are about worn out. Some of them are broken and on several occasions it has been found necessary to call in a lock-smith to open pouches from the department.

I have the honor, also, to request that a supply of despatch paper and type-writer paper (large and small

as all orgs I may be sent to this Legation.

I enclose herewith a list of the articles mentioned above.

I have the honor to be

Sir

Your obedient servant.

James A. Smith

Enclosure.

List of articles wanted.

List.

Complete set of new Lamps for Dispatchment Mail pouches

Supply of dispatch paper.

Supply of Type-writer paper, large size

" " " " letter size

DEPARTMENT OF STATE
OCT 24 1889
RECEIVED.

DIPLOMATIC BUREAU
OCT 24 1889

Legation of the United States
Tokio Japan. Sept. 26. 1889.

Sir

To the Secretary of State.

Subject:

Duplicate statement of account for salary, as Second Secretary of Legation, from July 1, 1889 to September 15, 1889.

Legation of the United States,
Tokio Japan. Sept. 26. 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to enclose herewith, a duplicate statement of my account for salary, as Second Secretary of Legation, from July 1st. 1889 to the September 15th. 1889.

I have the honor to be
Sir.
Your obedient servant
Edwin Dun
Secretary of Legation.

Enclosure.
As above

DEPARTMENT OF STATE
OCT 24 1889
RECEIVED.

DIPLOMATIC BUREAU
OCT 24 1889

No 47.

2D ASSISTANT SECRETARY.
To War Dept. in reply to its request of July – 1889
Ack as War Dept may reply
OCT 24 1889

Legation of the United States,
Tokio Japan. Sept. 26. 1889.

Mr Swift:

To War Dept Oct. 25/89.

To the Secretary of State

Subject:

Smokeless powder in use by the Japanese Government.

No. 47. Legation of the United States.

Tokio Japan Sept. 26. 1889.

Hon. James G. Blaine.

Secretary of State

Washington D. C.

Sir.

Referring to your No. 19. of July 30. 1889, relative to "the smokeless powder used by the Japanese Government" upon inquiry made here I find that the Japanese Government are in possession of the secret of a smokeless powder which they believe to be superior to any thing yet discovered. I also learn that the military attaché to the French Legation, Captain Bourgouin, has had an opportunity of witnessing experimental firing with the powder and that

he

he has expressed himself as well pleased with the results.

On receipt of your instruction, I communicated confidentially with Rear Admiral Belknap, Commander in-Chief of the U. S. Squadron on the Asiatic Station, who then happened to be in the port of Yokohama, and asked him to cooperate with me in investigating the subject as well as to aid me with his advice and assistance in carrying out your instructions. He readily consented to do so but as yet we have agreed upon nothing. He agreed with me in the opinion that it is important to learn whether or not the secret is known to any one outside of official employment and who might be induced

to

to impart it to our Government.

. . . . The current belief here that the Japanese Government will not, under any circumstances, part with the secret, has seemed to me so likely to be well founded, that I hesitate to approach Count Okuma upon the subject and will not do so until I have satisfied myself that I cannot by proper measures obtain the necessary knowledge elsewhere.

If, however, you think it advisable to apply directly to the Foreign Office with a request, I will do so at once, upon receipt of your instructions to that effect.

I have the honor to be

Sir,

Your obedient servant.

Joseph Heard

DEPARTMENT OF STATE
OCT 24 1889
RECEIVED.

2d ASSISTANT SECRETARY.

Act. by Number and File.
OCT 24 1889

DIPLOMATIC BUR[illegible]
OCT 24 1889

No. 48.

Legation of the United States.
Tokio Japan. Sept. 26. 1889.

Mr Swift:
To the Secretary of State:

Subject:
Receipt of instructions.

No. 48. Legation of the United States,
Tokio Japan, Sept. 26. 1889.

Hon. James G. Blaine,
Secretary of State
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your instructions numbered from 19 to 26, inclusive. Also your unnumbered instruction dated August 22nd 1889. Also your telegraphic instructions dated, respectively, September 7. 1889 and September 9, 1889.

I have the honor to be
Sir
Your obedient Servant.
John F. Swift

Hickshoefer

DEPARTMENT OF STATE
OCT 28 1889
RECEIVED.

DIPLOMATIC BUR
OCT 28 188

No. 49.

Legation of the United States.
Tokio Japan, Sept. 30. 1889.

Mr Swift:

To the Secretary of State.

Subject:

Duplicate statement of account for the disposition of the "Tanegashima fund"

No 49. Legation of the United States.
Tokio Japan Sept. 30. 1889.

Hon James G. Blaine,
Secretary of State
Washington D.C.

Sir:

I have the honor to enclose herewith, a duplicate statement with vouchers of my account for the disposition of the fund, $5000.—, appropriated by Congress for reward to the inhabitants of the island of Tanegashima, Japan, for rescuing and relieving the crew of the American barque "Cashmere."

I have the honor to be
Sir,
Your obedient servant
John F. Swift

Enclosure:- Duplicate account as above.

DEPARTMENT OF STATE
OCT 28 1889
RECEIVED.

DIPLOMATIC BUREAU.
OCT 28 1889

Vice Rhoades

No. 50. Legation of the United States.
Tokio Japan. Oct 3. 1889.

Mr Swift:
To the Secretary of State.

Subject:
Accounts for the quarter Ended Sept, 30, 1889.

No. 50. Legation of the United States.

Tokio Japan, Oct 3. 1889.

Hon James G. Blaine,

Secretary of State

Washington D.C.

Sir:

I have the honor to enclose herewith statements of my accounts for the quarter ended September 30, 1889, as follows:—

Statement of my account for salary; statement of my account for contingent expenses, and statement of my account for official telegrams.

I have the honor to be

Sir

Your obedient servant.

John F. Swift

Enclosure. Accounts as above.

Rec'd by Ex. Clerk

No. 51.

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU.
NOV14 1889

Legation of the United States.
Tokio Japan. Oct 10. 1889.

Mr Swift.
To the Secretary of State.

Subject:
Coinage of Japan for 1888.

No. 51. Legation of the United States.
Tokio Japan. Oct. 10. 1889.

Hon James G. Blaine,
Secretary of State.
Washington D.C.

Sir.

In compliance with your instruction No 18. dated July 20. 1889. I have transmitted to the Director of the Mint; a report relative to the coinage of Japan for the year 1888, in the form of replies to questions contained in Department of State Circular of December 17, 1888. to diplomatic officers.

I have the honor to be
Sir
Your obedient servant,

John F. Swift

Stockholder

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU.
NOV13 1889

Legation of the United States.
Tokio Japan. Oct 11. 1889.

Mr Dun.

To the Secretary of State.

Subject:

Salary account for the fraction of a quarter beginning September 16. 1889. and ending September 30, 1889.

Legation of the United States.
Tokio Japan, Oct 11. 1889.

Hon. James G. Blaine
Secretary of State.
Washington D.C.

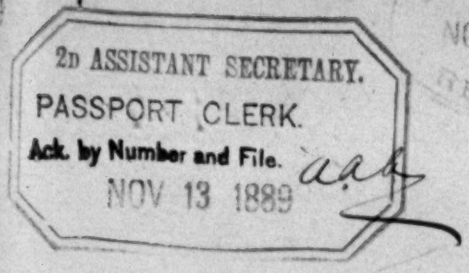
Sir:

I have the honor to enclose, herewith, a statement of my account for salary for the fraction of a quarter beginning September 16th, 1889, - the date of my entering upon the duties of my office, and ending September 30, the 1889.

I have the honor to be
Sir,
Your obedient-servant
Edwin Dun,
Secretary of Legation.

Enclosure: As above.

Annex 2 to 1889



No. 52.

Legation of the United States.
Tokio Japan. Oct. 12. 1889.

Mr Swift.

To the Secretary of State.

Subject:

Statement of passports issued during the quarter ended September 30, 1889.

NOV 13 1889
RECEIVED.

No. 52.

Legation of the United States.
Tokio Japan. Oct 12. 1889.

Hon James G. Blaine
Secretary of State
Washington D.C.

Sir:

I have the honor to enclose herewith "Statement of Passports" for the quarter ended September 30. 1889. together with the evidence upon which the only passport applied for during the quarter, was issued.

I have the honor to be
Sir.
Your obedient servant.
John F. Swift

Enclosures:

"Statement of Passports."

Application for Passport, Oath of allegiance &c. dated September 18. 1889.

Sent by the Fleet

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU
NOV14 1889

Legation of the United States.
Tokio Japan. Oct-14. 1889.

Mr Dun,

To the Secretary of State:

Subject:

Receipt of personal instructions,
commission as Secretary of Legation
and Letter of credit:

Legation of the United States.

Tokio Japan, Oct. 14. 1889.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir.

I have the honor to acknowledge the receipt of an instruction, dated September 14, 1889, from Mr Adee, Acting Secretary of State, informing me that the President had thought proper to appoint me Secretary of this Legation, acquainting me with the general duties and obligations which it is required of a Secretary of Legation to undertake, and enclosing my Commission from the President, dated September 3, 1889, and also a letter of Credit.

On

on Messrs. Morton, Rose & Co. bankers for the United States at London, authorizing them to pay my drafts for salary as it became due.

In my despatch, dated September 16. 1889, I had the honor to inform you that; as authorized by telegraphic instruction, of September 7. 1889, from Mr Adee, Acting Secretary, to Mr. Swift; I gratefully accepted the appointment and had qualified and entered upon the duties of my office.

I have the honor to be

Sir,

your obedient servant

Edwin Dun,

Secretary of Legation.

Dis/ From U.S. Legation to Japan

DEPARTMENT OF STATE
OCT 26 1889
RECEIVED.

London, Oct 16, 1889.

DIPLOMA
OCT 26 1889

To Hon. J. G. Blaine
Secretary of State
Washington

Mr Wm Hooper

Sir:

Herewith I have the honor to inclose my Statement of Salary account for the Quarter Ended September 30th 1889.

I have the honor to be
Sir,
Your obedient Servant
Willis Hunter Whitney,
Interpreter of Legation
Tokyo

On Leave of absence.

Address
c/o Wistar Morris Esq
Overbrook Station
Philadelphia

NOV 13 1889
RECEIVED.

No. 643.

Legation of the United States.
Tokio Japan, Oct. 16. 1889.

File

Mr. Swift:
To the Secretary of State.

Subject:
Count Itô's resignation.

Synopsis.
His supposed reasons for resigning.
His opposition to treaty revision a surprise.
Governor Hubbard believed to have stated that he had received a letter from Mr. Blaine, approving of treaty of Feby 20, 1889. Effect of statement on treaty revision.

No. 53. Legation of the United States,
Tokio Japan, Oct: 16. 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

The controversy between those who favor and those who oppose treaty revision in Japan continued, since my last despatch on the subject, without marked change or incident until Friday last, the 11th. instant, when diplomatic and political circles at this Capital were startled by the announcement that Count Mō had resigned his place of President of the Privy Council.

The reasons that have led this distinguished

distinguished gentleman to take this pronounced step have not been made public, at least authoritatively. But it is claimed with reasonable probability that he objected to the treaties, now in negotiation, on the ground, amongst others, that the stipulation for foreign judges to sit in Japanese Courts, is in conflict with the Constitution recently promulgated. It is to be borne in mind that Count Itō is credited with being the principal framer of that instrument. If it be true that he was the draftsman and chief promoter of the Constitution, it is only natural that he should be specially jealous in defending it against what he may deem to be an infraction.

At

At any rate he has recently published an elaborate commentary and exposition of the instrument; a copy of which I herewith enclose, in which he calls attention to the section, No. XIX., specifying the qualification for office in Japan and maintaining that office holding is limited to subjects of the Emperor.

As Count Ito was Minister President of State (Premier) and Acting Minister for Foreign Affairs, as recently as immediately prior to the accession to this last office of Count Okuma, I assume that you are fully aware of his personal character and his powerful influence in the Government and general politics of this country.

That Count Ito should be found opposed

opposed to treaty revision is a surprise to many leading Japanese. It was thought that he would stand by the programme agreed upon towards the end of 1888.

It is said that the first step taken by Count Okuma in treaty revision, was to submit his plan to his colleagues in the Cabinet, including Count Ito, and obtained the written consent of each and all of them without exception. Having secured their consent in black and white, he next moved upon the United States through my predecessor Governor Stubbard, and with the least possible delay and with a degree of promptness that demonstrated beyond question the entire willingness of his Government

to

to accommodate Japan in her supposed wishes, that gentleman acting under telegraphic instructions from Mr. Bayard, appended his signature to the treaty as it came from the Foreign Office, without changing a line or sentence.

Using that treaty as a leverage upon other powers, similar Compacts were then obtained from Germany and Russia. The peculiar circumstances of the complete change of administration, a new President and new Secretary of State, that took place between the signing of the treaty of February 20, 1889 at Tokio, and its arrival at Washington, tending, as it certainly did, to cause diplomatists here to question its fate at the hands of

the

the new Executive, to say nothing of the still more difficult Senatorial gauntlet through which it must run, was put aside and over come by the general belief that Governor Hubbard had, before taking leave, declared himself in possession of a private letter from Mr. Blaine, stating, confidentially, that the treaty met with his entire approval and that it would, without doubt, be confirmed by the Senate.

It was this that caused the representatives of European States, here, to urge upon their Governments the necessity of concluding treaties upon the same lines as speedily as possible, so as not to be left in the lurch by the United States. The result is

shown

shown in the treaties with Germany and Russia, signed, as well as with Great Britain, France and other powers, in advanced stages of negotiation.

But, as you have already been informed this has not been accomplished without opposition from the quarter least expected, namely the people and politicians of Japan. The general methods and action of the opponents of treaty revision, I have already advised you of in former dispatches.

The constitution and functions of the Privy Council, the Presidency of which Count Itō has just resigned, as well as the character and position of that Statesman himself

himself, will be found clearly and forcibly described in the despatch of Governor Hubbard to Mr Bayard, No. 468, dated May 9. 1888, to which and especially to a clipping from the "Japan Mail" designated as the 2nd. Enclosure with that despatch, I respectfully call your attention.

I have the honor to be

Sir,

Your obedient servant.

Robert T. Swift

Enclosure, Separate.

1. "Commentaries on the Constitution of the Empire of Japan, by Count Hirobumi Itō" one Copy.

2. Ex Mr Hubbard to Mr Bayard No. 468. May 9. 1888

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU.
NOV 13 1889

Mr. Fairchild

No. 54.

Legation of the United States.
Tokio Japan. Oct 16, 1889.

Mr Secretary.

To the Secretary of State,

Subject:

Duplicate statements of accounts
for the quarter ended Sept 30, 1889.

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

No. 54.

Legation of the United States,
Tokio Japan, Oct 16. 1889.

Hon James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to enclose herewith, duplicate statements of my accounts for salary, contingent expenses and official telegrams, for the quarter ended September 30, 1889.

I have the honor to be
Sir,
Your obedient servant,
John F. Swift

Enclosures:
Duplicate statements of accounts, as above.

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

No. 55.

File copy

Legation of the United States,
Tokio Japan, Oct 17. 1889.

Mr Swift:

To the Secretary of State,

Subject:

Article from the "Japan Herald" upon treaty revision, and situation in Japan.

Synopsis

Misunderstanding by foreign Nations of the actual condition of things in Japan. The supposed causes which have led to this. Increase of crime, resulting from the attempt to Europeanize the criminal Codes. Some instances cited

cited of such result. A curious decision of a Japanese Court.

No. 86. Legation of the United States.

Tokio Japan, Oct. 17. 1889.

Hon. James G. Blaine,

Secretary of State.

Washington,

Sir:

I have the honor to enclose herewith for your information a leading article from the "Japan Daily Herald" of the 17th instant upon the subject of treaty revision. The "Herald" is one of the best of the many excellent and very ably conducted foreign newspapers published in this Country. Its proprietor and the dictator of its policy is an Englishman. The leader inclosed is the first article

article of distinct anti-treaty bias (for even this can hardly be called an attack upon the treaties) that I have seen up to this time, in the English press-papers, though both the "Herald" and "Gazette" have for some time past shown a disposition to veer round against revision on the given lines.

It will be seen that the 'Herald's opposition, if such it may be called, is put chiefly upon the ground of the interests of Japan, and the Japanese people. That Count Okuma would do well to stop for the present, so says the "Herald" and would for "the ripening of public opinion in Japan." And he confesses that if I were called upon to state what-

what I think though I have been here but a short time, and my knowledge of the country is necessarily exceedingly limited, I should certainly hesitate before differing very materially with the article, I have the honor to enclose for your consideration. I am not however of the opinion, as the 'Herald' is that there should be, absolutely no treaty remain at this time. I only think that it has been gone about in the wrong way. I have no sort of doubt that Japan is amply ripe for tariff and trade autonomy but I do question very seriously whether the laws and especially the tribunals of justice are

Yet

yet so constituted that Americans and Europeans can live with safety and especially with that due confidence, essential to comfort and the enjoyment of life, be subjected to their encroaching operations. I fully agree with the idea suggested of not distinctly charging in the very beginning of the enclosed articles that public opinion in the United States in England and on the Continent of Europe has been misled as to the actual condition of Japan and the Japanese, but I do not, however, think that the misunderstanding of the situation is due wholly, or even in very great part, to the "accidents" of the press

Duplicate with No. 53

The Japan Daily Herald.

THURSDAY, 17TH OCTOBER, 1889.

Specious Sophistries of Irresponsible Scribblers.

THE assiduous way in which the press has been "worked" in the United States, in England, and on the European continent, in respect of treaty revision, bears ample testimony to the industry, rather than to the impartiality and truthfulness of the interested scribes who wield their pens in that behalf,—who give their minds to the fabrication of letters and leaders of a more or less illusive character, addressed to readers mostly too ignorant of facts and circumstances here to be able to discount these specious lucubrations, or appraise them at their actual value. It happens, fortunately, that these sophistical epistles produce but little effect, whilst most of the Governments have been warned by their trustworthy agents here, as to the proper estimate to be placed on these more than questionable productions. Owing to the quarters from whence they originate, they may perhaps serve to promote the personal interests of the writers of them, and if so, the principal object which they had in view, will have been achieved. In that case, when their own ends shall have been served, we may be permitted to hope that they will one day "rest and be thankful." Were it not that these inspired letters and articles are invariably reproduced in a contemporary published in Yokohama, which affects that sort of literature, it is probable that a few of them only would come under the observation of readers here, but the lively interest which the Editor of the periodical referred to takes in them, as shown by their regular reproduction by him, gives substantiality to the well grounded suspicion, that he could tell us more about their authorship than, for good reason, he cares to divulge. Their remarkable family likeness too, seems to suggest if not a parentage absolutely common to them all, at all events, of a relationship sufficiently close to be noticeable.

Cursorily glancing over one of these doubtful productions the other day,—for we rarely waste time in reading them attentively through, to our astonishment we learnt,—though we have almost ceased to be surprised at what under the hands of these scribblers, finds its way into print,—that Japan throughout was jubilant at the hopeful prospect, on the point of realization, of the signing of the new treaties, with foreign Powers. The writer, warming with his theme, became exuberant:—he was gushing to a degree. The entire people throughout the length and breadth of the land, according to this veracious and gifted writer, were almost, if not quite in convulsions of joy. It is almost a pity, perhaps a cruelty, that we should feel called upon in the interests of truth, to dissipate the illusion sought to be palmed off upon his readers by this highly imaginative person, who has thus addressed himself to the uninformed understandings of "the innocents abroad." A few unpoetic figures will, however, do the business so effectually, that we cannot resist the temptation to make use of them. Romance is well enough in its way, but must give place to reality, upon needful occasion, and this is one. Not only has there been no display of popular enthusiasm, in favor of revision, but so far as the public voice has found utterance, it is nearly wholly expressed the other way. The Senate, up to the end of last month had 185 memorials presented to it against, and only 120 in favor of what Count OKUMA has taken in hand. This preponderance of adverse appeals proves plainly enough that the people are widely divided in opinion on the subject, but when we come to take note of the number of signatures appended to these documents, we find that the preponderance of objectors is overwhelming, for those in favor only amount to 6,754, whilst those opposed to revision, number no less than 56,837.

These figures, notwithstanding the contention of the *Japan Mail* to the contrary, are a complete justification of what we have always held and stated, that outside the official class, the people, in the gross, were mostly entirely apathetic, whilst the major portion, from a variety of causes, are much opposed to revision. The clamour which has been raised, and so long sustained, has been confined to a very limited number. The nation at large has not stirred. Its attitude has been one of almost pure indifference; now, when it has been as it were galvanised into some show of emotion, it records its opinion adversely in the proportion of more than nine to one, to what the Government is by Count OKUMA's efforts, hurrying forward to completion.

Were revision at all so rosily thought of as represented to readers abroad, the Minister principally concerned in securing it, ought certainly to be sure of the plaudits of the multitude of his countrymen. Count INOUYE fell in popular estimation on account of his efforts in that regard, and now we are told, and it is a sorry fact, and a shame too, that Count OKUMA, has been obliged, in order to guard against assault or assassination, to carry a sword stick, even when passing along the short distance intervening between the Foreign Office and his official residence, and he also has to be guarded by a body of four armed policemen. Public feeling must run high indeed when a Minister, far from deficient in personal courage, and who is generally respected, feels his life to be menaced. Were he to be removed from the public stage by the act of some dastardly miscreant, it would be a public calamity, for whether he be destined to emerge with success from the difficulties surrounding him, or otherwise, the loss of his calm judgment and wise counsels in state emergencies, would be severely felt. His superior in ability amongst the advisers of the Emperor would be difficult to find.

The short-sighted obduracy of England, in not agreeing to strike her colors on demand, is a favorite theme with the class of writers to whom we have made allusion. Assertions of a spurious sort are again and again uttered, alleging that British trade in these parts will suffer diminution if the political desires of Japan are not gratified by Great Britain yielding almost at discretion. But the surprise is that anything so shallow as this should be

advanced in the expectation that it will be likely to meet with credence. The least experience in commercial business suffices to establish the fact that neither sentimental nor political feeling controls the operations of the counting house, nor influences the making of a bargain. England will be secure in the possession of her trade, and will hold the field against her rivals just as long as she makes goods suitable to the market, and can undersell every competitor, and no longer.

Then again, for the special purpose of bringing pressure to bear, visionary ideas are disseminated regarding the incalculable advantages to result from the throwing open the country to the foreigner, and the wonderful opportunities which the British capitalist will be put in possession of for the investment of his money. Yet how strange it is that not half a dozen persons of local knowledge, can be found outside the circle of these dreamers, to express an opinion that profitable chances exist in the interior, or who deem it would be worth while for foreign [Governments to make sacrifices in a vain attempt to get at what is not to be met with except in a minor degree, such as is not worthy of consideration.

The good will of Japan is another lure made use of to influence England to give way. But nations, like individuals, are governed by selfish instincts; Japan, therefore, will certainly run no risks, in the event of war breaking out between Great Britain and any other Power, —say Russia, for instance. Self protection will be best secured by an absolute neutrality which in the eventuality mentioned, she will be prompt to declare. The stock arguments of these writers who keep the ball rolling, though it is almost an abuse of the word to use it in such connection, weary by their frequent reiteration; they are not supposed to believe in them themselves, and they would not be likely from their intrinsic emptiness, to influence any man of sense, with a sufficiency of information, who brings his mind to bear on the subject. The world, however, is not lacking in ignorance, nor in fools, and the suffrages of perhaps some of the latter may chance to be secured.

With the vast majority of the Japanese people hostile to revision, and a minority not much more than lukewarm, and foreigners either neutral or antagonistic, would it not be well for Count Okuma to seriously consider, whether it is worth while in the present temper of the times, going on farther with the business of revision. Delay has hitherto resulted in gain to Japan. A few years more of preparation, and waiting for the ripening of public opinion, would be likely, without much additional effort, to secure autonomy to this country. Why then be so pressing in the midst of a host of obstacles to obtain that which will confer no advantage commensurate with its cost, which of itself will be imperfect, and with which nine-tenths of those interested will be displeased. By the treaties as proposed, Japan gains nothing, but is laying herself under obligations which the nation's voice disapproves, and is delaying, by so doing, the resumption of autonomy. Regarded in this light, revision is a political mistake and had better be abandoned. If that course were adopted it would content the majority of all concerned,—Japanese and foreigners alike.

press has been worked in those
Countries, but to many others and
in most unlooked for ways, quite innocent
and accidental forces, sufficient
to bring about the same result.
In the first place, for more than
a quarter of a century past,
the great Cities, Educational
& Intellectual Centres of Europe and America,
have been invaded by crowds
of young Japanese of the
finest character, seeking Education
and knowledge of the world.
It is beyond question that the
personal demeanor and bearing
of the Japanese is so polite and
graceful as to render them more
than ordinarily attractive.

These

These students and travellers have especially affected English speaking Centers, rather preferring the United States. They have made friends for themselves and their Country wherever they have gone. The universal politeness and graceful bearing of all classes in Japan, high and low, along with their esthetic qualities characterized in their art, have impressed foreigners passing through their Country to a singular degree. These have gone away and have spoken and written of the Country as a land of pure poetry and romance, until this idealistic view of Everything Japanese has become fixed

Supd in the literature and opinion
of Western nations. It may be
almost said that the prevailing
notion held by Americans and
Europeans, is that the Japanese
are, in a certain sense, ideal
creatures, beings of fancy and
the imagination concerning whom
ordinary descriptive language
is inapplicable, in short, a nation
of people utterly unrealizable in
practice. The evident and sincere
desire manifested by Japanese
who have traveled about to have their
country imitate the Civilization and
progressive and liberal methods
of Western nations has at the
same time to a considerable
extent been accepted for the fact
itself

itself, and many have jumped to the conclusion that Japan has actually done all the westernizing from despair to see her do. Through some such misapprehension and with no intention on the part of any one to mislead, it has come to be taken as a settled fact in Europe and America, that the Japanese people, if they have not actually thrown away their ancient Civilization have done so to a considerable extent; and that at any rate they have made wonderful progress in the direction of adopting Western ideas and manners. And this notion is not without a certain foundation in truth. Considering what Japan was

when

when Commodore Perry barely a
generation ago broke down the barrier
of exclusion which it had maintained
for ages against the influence of
the rest of the world, the progress
it has made in that short time
may be fairly regarded as
remarkable.

And if all Japan could be
fairly judged by the specimens
of her people who now ably visit
Europe and America, they are
not only not to be considered
as behind western nations in
many respects, but for any
thing to the contrary
may be equal or even superior.

The Government of the Country
is at this time in the hands
of

of a body of gentlemen, graceful and attractive in bearing and possessing intelligence and intellectual acomplishments of the highest order, such indeed as would be a credit to any country. And the same can be truthfully said of some hundreds, possibly thousands of others in less elevated positions, in public and even private life, scattered here and there over the country. Many of these have traveled abroad and obtained their education in Europe and America. Others at more pains and under greater difficulties have reached the same intellectual

position

position by education obtained at home in Japan.

These leading men have considerable understanding of Western civilization, these admire it beyond everything and long to see their own country in possession of it. And if wishing for it would bring it about, these Japanese would without a moments preveracination, have their beloved country as similar as possible to the United States, England and France. But the prayers and wishes of patriots and good men for great reforms have not in the world's history always brought them about, nor have they in every instance greatly hastened them.

It is quite to be believed that the Czar Peter, when he visited Western Europe on his famous quest for civilization, wished with longing heart to see his people as advanced as were those he mingled with at the Courts and even in the dockyards of England and Holland. But his wishes were hardly obtained in his own life time, nor for long after, even if at all as yet.

Nevertheless, the Mancovites of the period of Peter the Great had learned or unlearned many things tending to promote and render easy assimilation with Western Europe, that the Japanese as a nation have yet to learn and unlearn

mistake before they are likely to do so. My grateful and able predecessor Governor Stubbs in many of his despatches to the Department and especially in his No. 161. dated February 20. 1889, has given the impression that Japan both as to substance and form as well as to judicial administration was abreast of Europe and America. I cannot agree with him, though owing to my great respect for his personal character and abilities I differ with reluctance and hesitation. The actual changes are as yet few and those which have been made are not operating as beneficially as the friends of Japan could desire. Amongst others

other things they have abolished the ancient system for the prevention and punishment of crime. The old system was one of extreme severity to the criminal including torture as an ordinary method of detection, and death by Crucifixion as a punishment for delinquencies which in England and America are punished by imprisonment only. I am of the opinion that under that system of severe repression, crimes against property were comparatively of rare occurrence, imbued with European notions and, possibly to some extent, affected with a desire to impress Europeans with the progress they were making towards western and more humane methods, they have adopted a new written criminal Code, modeled after that

of Fraud and with punishments that doubtless have been found to be sufficient to repress to a satisfactory extent crime in that country but which present little or no terrors whatever to the Japanese is confined to that class of offences.

The consequence has been precisely what might have been foreseen in a great increase in crimes such as Larceny and burglary. Almost continuously since my arrival in Japan I have had my attention called to the fact of the houses of the foreign residents of Yokohama and Tokio being entered and robbed in the night time by burglars. It has been of weekly if not daily occurrence.

I

I was surprised at this for my impression & smiled from recollecting accounts of visitors to the country were quite to the contrary. Two or three times during Governor Hobbs residence at this Legation and once within the brief period I have been here, the house has been entered and robbed in the night-time in the middle of the night-in July last, a burglar broke in to the house and penetrated and ransacked every room in it, stealing jewelry and articles of value and was only prevented from carrying away more by the circumstance of waking up my wife and myself while he was in our bed room Engaged in his operations. It happened

I supposed that I was detected
the following morning by the police.
That evening I had taken into still
with his possession and his guilt
was beyond question. The man
was between twenty five and thirty
years of age dark complexion
circumstances, to my knowledge,
was found guilty of riot. He was
sentenced, convicted and sentenced to
60 days in prison, to be followed
by six months probation, whatever
that may be. In any
State in the Union, he
would have got from one to
fifteen years with the chances
in favor of the average of about
fifteen years

But between the two cases this does
not

not prevent the contract in its completeness. In America there is no class so low in the social scale, that the degradation resulting from the re-organized infamy of the punishment is not of itself a considerable deterrent. This is not true of the lower classes in Japan. The distinctions are here so broad between the governing class and the governed, that it is safe to put down the effect of this part of the punishment as practically nil. The Coolie who has been in prison can hardly feel himself as much lower in the scale

of

of Society, than the Embelli
who has not acquired fame.
the shortest time, record who
burglarized this Legation
on July 10 already at large
having had accident holiday
of sixty days during which while
being fed, he has not been
made especially unhappy
to say the least. I see no
good reason to prevent this
depredating his appointment
with every chance of his
escaping the mighty times
without detection. This
occurred on July last and
the British Legation has been
burglarized at least once
since that recent day.

Yr

In short the Government without reflecting upon the different decisions existing in this Country are annulling a system that whatever were its faults did deter crime, in favor of another system that can scarcely be said to have such an effect. So much for the new law. Now a word as to the method in which it is administered by the Courts. A short time ago a Japanese mechanic working for wages in the machine shops of the Pacific Mail Company at Yokohama, stole and carried away with him, from the shops, a steel tool for cutting threads

threads upon a sewing, worth
about two dollars; he was
arrested with the tool in his
possession, tried before one of the
Judges of the Supreme Courts, a
man of extensive legal learning
and considerable prominence
and distinction, his counsel
occupying a relative position
to our Courts of general
jurisdiction, found guilty
and sentenced to sixty days
imprisonment; the same
punishment, you will observe,
as that inflicted for breaking into and
robbing in the night time,
a dwelling house, the residence
of the United States Minister.
But we ask the curious sequel.

a

A few days after the trial was concluded, the Judge of the Court made a formal demand (via U.S. Consul General Gye at Honolulu) in writing, for a delivery to the Court of the tool (a crow thread cutter) for the purpose of returning it to the thief. Thus a client undergoing imprisonment for its larceny. That correspondence is now before me. The Judge sends a copy of the judgment of the Court in the case. It was proved by the Court from the evidence that the man had stolen the tools from the Pacific Mail Company's shops for which he was awarded sixty

11

rightly done in prison. But
suppose that the property
was the prisoner had during
the time of his employment
with his own hands at the
Company's shops, made the
tool of the Company's iron
and steel, the property in the
said tool, by operation of
law, vested in him the
prisoner, and it must be
delivered up to him as the
lawful owner.

How wonderful certainly that this
Japanese Judge who, is
beyond doubt a man of
no ordinary intelligence, would
live under the ancient system
of Japanese jurisprudence,

have

I have been guilty of this abandoned decision of the Law, gotten out of a certain amount of study of the Civil Law, together with a little learning always a dangerous thing, and a good deal of the new Codes. But none of these things, serious as they are in my opinion, are sufficient ground for refusing to consider the demand of Japan, when once made, for a restoration of Control of her internal affairs. If Japan seriously demands it it is true of no good ground upon which we could base a perpetual refusal. While abolition

of

of Consular jurisdiction and the substitution of Japanese boards and Courts would greatly increase the number of American citizens residing in Japan, and perhaps necessarily, subject them to injustice, if would not necessarily drive them out of the country nor from pursuing their commerce, upon the whole, with profit to themselves and benefit to the United States, to which, presumably, they intend in time to return, with their accumulations. So deed it seems to me that the proposed abolition of Consular jurisdiction is likely to do as much, and possibly

possibly more harm to Japan than to our country. If our citizens should think themselves aggrieved by unjust or illegal adjudications of the Courts they would in every instance appeal to the diplomatic representative for relief and redress and this Legation would, in practically every case, the embarrassment resulting from such a state of things, I need hardly point out. They are endless. On the other side, the danger to Japan in forcing the entire Nation under new and strange laws, I have already referred to at considerable length in former despatches.

X

Mr

It is evident that something very like a Cabinet Crisis is now going on in the Government at Tokio, but the actual extent and causes of which it is only conjecture. It may result in the entire defeat of treaty revision being withdrawn or suspended and it may not.

Should it not such steps be pursued to a conclusion, I deem it the X duty of diplomacy and prudence to threaten for the safety of our citizens who live outside for the United States to withdraw to obtain a more perfect guarantee of just-

and

and fair trials, if possible
than is secured to us by the
treaty of February 20. 1869.
I refer not so much to the
laws under which they are
to live while in Japan as
as to the method of trying
the causes and settling the
facts of each case of American
citizens when defendant or
accused.

I believe that better terms than
are secured in that treaty
can be obtained if asked
for. I believe they could have
been had originally if demanded.

I repeat my suggestion
made in a former despatch
May No. 42. of trial of accused
Americans

Americans by a jury of
Americans or at least of
foreigners as a permanent
judicial method.

I have the honor to be
Sir
Your obedient servant.
John T. Swift

Enclosures.—
Clipping from the
"Japan Herald. Oct. 17. 1882.

Enclosure with Mr Swifts No. 53.

The Japan Daily Herald.

THURSDAY, 17TH OCTOBER, 1889.

THE assiduous way in which the press has been "worked" in the United States, in England, and on the European continent, in respect of treaty revision, bears ample testimony to the industry, rather than to the impartiality and truthfulness of the interested scribes who wield their pens in that behalf,—who give their minds to the fabrication of letters and leaders of a more or less illusive character, addressed to readers mostly too ignorant of facts and circumstances here to be able to discount these specious lucubrations, or appraise them at their actual value. It happens, fortunately, that these sophistical epistles produce but little effect, whilst most of the Governments have been warned by their trustworthy agents here, as to the proper estimate to be placed on these more than questionable productions. Owing to the quarters from whence they originate, they may perhaps serve to promote the personal interests of the writers of them, and if so, the principal object which they had in view, will have been achieved. In that case, when their own ends shall have been served, we may be permitted to hope that they will one day "rest and be thankful." Were it not that these inspired letters and articles are invariably reproduced in a contemporary published in Yokohama, which affects that sort of literature, it is probable that a few of them only would come under the observation of readers here, but the lively interest which the Editor of the periodical referred to takes in them, as shown by their regular reproduction by him, gives substantiality to the well grounded suspicion, that he could tell us more about their authorship than, for good reason, he cares to divulge. Their remarkable family likeness too, seems to suggest if not a parentage absolutely common to them all, at all events, of a relationship sufficiently close to be noticeable.

Cursorily glancing over one of these doubtful productions the other day,—for we rarely waste time in reading them attentively through, to our astonishment we learnt,—though we have almost ceased to be surprised at what under the hands of these scribblers, finds its way into print,—that Japan throughout was jubilant at the hopeful prospect, on the point of realization, of the signing of the new treaties, with foreign Powers. The writer, warming with his theme, became exuberant:—he was gushing to a degree. The entire people throughout the length and breadth of the land, according to this veracious and gifted writer, were almost, if not quite in convulsions of joy. It is almost a pity, perhaps a cruelty, that we should feel called upon in the interests of truth, to dissipate the illusion sought to be palmed off upon his readers by this highly imaginative person, who has thus addressed himself to the uninformed understandings of "the innocents abroad." A few unpoetic figures will, however, do the business so effectually, that we cannot resist the temptation to make use of them. Romance is well enough in its way, but must give place to reality, upon needful occasion, and this is one. Not only has there been no display of popular enthusiasm, in favor of revision, but so far as the public voice has found utterance, it is nearly wholly expressed the other way. The Senate, up to the end of last month had 185 memorials presented to it against, and only 120 in favor of what Count OKUMA has taken in hand. This preponderance of adverse appeals proves plainly enough that the people are widely divided in opinion on the subject, but when we come to take note of the number of signatures appended to these documents, we find that the preponderance of objectors is overwhelming, for those in favor only amount to 6,754, whilst those opposed to revision, number no less than 56,837.

These figures, notwithstanding the contention of the *Japan Mail* to the contrary, are a complete justification of what we have always held and stated, that outside the official class, the people, in the gross, were mostly entirely apathetic, whilst the major portion, from a variety of causes, are much opposed to revision. The clamour which has been raised, and so long sustained, has been confined to a very limited number. The nation at large has not stirred. Its attitude has been one of almost pure indifference; now, when it has been as it were galvanised into some show of emotion, it records its opinion adversely in the proportion of more than nine to one, to what the Government is by Count OKUMA's efforts, hurrying forward to completion.

Were revision at all so rosily thought of as represented to readers abroad, the Minister principally concerned in securing it, ought certainly to be sure of the plaudits of the multitude of his countrymen. Count INOUYE fell in popular estimation on account of his efforts in that regard, and now we are told, and it is a sorry fact, and a shame too, that Count OKUMA, has been obliged, in order to guard against assault or assassination, to carry a sword stick, even when passing along the short distance intervening between the Foreign Office and his official residence, and he also has to be guarded by a body of four armed policemen. Public feeling must run high indeed when a Minister, far from deficient in personal courage, and who is generally respected, feels his life to be menaced. Were he to be removed from the public stage by the act of some dastardly miscreant, it would be a public calamity, for whether he be destined to emerge with success from the difficulties surrounding him, or otherwise, the loss of his calm judgment and wise counsels in state emergencies, would be severely felt. His superior in ability amongst the advisers of the Emperor would be difficult to find.

The short-sighted obduracy of England, in not agreeing to strike her colors on demand, is a favorite theme with the class of writers to whom we have made allusion. Assertions of a spurious sort are again and again uttered, alleging that British trade in these parts will suffer diminution if the political desires of Japan are not gratified by Great Britain yielding almost at discretion. But the surprise is that anything so shallow as this should be

advanced in the expectation that it will be likely to meet with credence. The least experience in commercial business suffices to establish the fact that neither sentimental nor political feeling controls the operations of the counting house, nor influences the making of a bargain. England will be secure in the possession of her trade, and will hold the field against her rivals just as long as she makes goods suitable to the market, and can undersell every competitor, and no longer.

Then again, for the special purpose of bringing pressure to bear, visionary ideas are disseminated regarding the incalculable advantages to result from the throwing open the country to the foreigner, and the wonderful opportunities which the British capitalist will be put in possession of for the investment of his money. Yet how strange it is that not half a dozen persons of local knowledge, can be found outside the circle of these dreamers, to express an opinion that profitable chances exist in the interior, or who deem it would be worth while for foreign Governments to make sacrifices in a vain attempt to get at what is not to be met with except in a minor degree, such as is not worthy of consideration.

The good will of Japan is another lure made use of to influence England to give way. But nations, like individuals, are governed by selfish instincts; Japan, therefore, will certainly run no risks, in the event of war breaking out between Great Britain and any other Power, —say Russia, for instance. Self protection will be best secured by an absolute neutrality which in the eventuality mentioned, she will be prompt to declare. The stock arguments of these writers who keep the ball rolling, though it is almost an abuse of the word to use it in such connection, weary by their frequent reiteration; they are not supposed to believe in them themselves, and they would not be likely from their intrinsic emptiness, to influence any man of sense, with a sufficiency of information, who brings his mind to bear on the subject. The world, however, is not lacking in ignorance, nor in fools, and the suffrages of perhaps some of the latter may chance to be secured.

With the vast majority of the Japanese people hostile to revision, and a minority not much more than lukewarn, and foreigners either neutral or antagonistic, would it not be well for Count Okuma to seriously consider, whether it is worth while in the present temper of the times, going on farther with the business of revision. Delay has hitherto resulted in gain to Japan. A few years more of preparation, and waiting for the ripening of public opinion, would be likely, without much additional effort, to secure autonomy to this country. Why then be so pressing in the midst of a host of obstacles to obtain that which will confer no advantage commensurate with its cost, which of itself will be imperfect, and with which nine-tenths of those interested will be displeased. By the treaties as proposed, Japan gains nothing, but is laying herself under obligations which the nation's voice disapproves, and is delaying, by so doing, the resumption of autonomy. Regarded in this light, revision is a political mistake and had better be abandoned. If that course were adopted it would content the majority of all concerned,—Japanese and foreigners alike.

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU
NOV14 1889

No. 82.

Rec'd 21 NOV

Legation of the United States,
Tokio Japan, Oct 21. 1889.

2D ASSISTANT SECRETARY.
Ack with regret, sympathy, and hopes for Count Okuma's recovery.
NOV 13 1889
Give to Press.

Mr Swift, to
The Secretary of State.

Subject:
Attempted assassination of H.E.
Count Okuma, H.I.J.M's.
Minister for Foreign affairs.

No. 56. Legation of the United States.
Tokio Japan, Oct 21. 1887.

Hon. James G. Blaine
Secretary of State
Washington D.C.

Sir,

I regret to find it my duty to inform you that an attempt was made at this Capital on the 18th inst. to murder Count Okuma H. I. J. M's Minister for Foreign Affairs.

The full result of the attempt to take the life of this distinguished Japanese Statesman, remains still in doubt. The fact the injuries inflicted upon him are of so serious a nature

as

as to keep his recovery in a state of uncertainty for some days to come. Though I am glad to be able to say that there is good reason to hope for a favorable outcome, at least so far as can be foreseen at this early stage.

The circumstances of the affair as nearly as they can be gathered from a number of conflicting reports, are as follows:-

On the afternoon of the day above named, about five minutes past four o'clock, Count Okuma was in the act of returning from the Imperial Palace to his official residence, which is in the same enclosure with the Foreign Office and reached through the same principal gate

His carriage was closed but with the windows for the moment open, that is the sash was down. The Count occupied the inside of the vehicle alone. He had been attending a Cabinet meeting in the Emperors presence. The street upon which the Foreign Office stands, runs north and south. The premises looking upon it from the west. He was approaching his home from the north, which is the direction of the Palace, and when near the principal gate it seems the driver upon the box observed a suspicious looking man, following the carriage and quickened his pace to avoid him.

H.

It is not out of place to mention here, that in consequence of the agitated state of public feeling, that in the last few months has arisen on the question of treaty revision; and it is only the simple recognized truth to add, in consequence of the known tendency of Japanese to political assassination, a national characteristic as fully understood by Japanese statesmen, as by foreigners, if not more so, all the Cabinet Ministers and especially Count Okuma, who is recognized as the center and soul of the efforts to revise the treaties, have deemed it advisable in all their movements out of doors, to be accompanied by a certain number of ununiformed

detectives

detective policemen. This is purely and simply a precaution taken against assassination, which they all, with more or less reason, fear. The guards usually follow the Minister's carriage in jinrikishas, (small hand carriages drawn by running coolies) which is the ordinary method of locomotion in Japan. Whether these men were witnesses, or not, to what occurred, does not appear in the numbered statements. Indeed, I do not in this instance, hear of their having been along; but it is to be presumed that they were not far off. At any rate just as the carriage was on the turn to enter the gate this suspicious individual, who

who was dressed in foreign or European clothes, and who proved to be a Japanese named Kuroshima Tsuneki, aged twenty seven, approached and threw a dynamite bomb through the window. It entered from the left side and exploded with a sound like that of a small cannon, which was heard at a great distance, more than a mile in some instances. It is thought that Count Okuma, who is spare in figure, was seated with his right leg thrown over his left; as it was the right leg which received the force of the Explosion and the principal injuries. Upon hearing the sound of the bursting shell, the

driver

the driver whipped up his horses, running rapidly up the slight elevation from the gate to the door of Count Okuma's official residence, a distance of about 200 feet. Here the Count was taken out of the carriage and laid upon a sofa. He was conscious, It was found that his right leg was injured in two places, one at the knee and the other near the ankle. The bone was found to be badly crushed in both places. He had several minor injuries about the face and hands. On a consultation of surgeons which was held as soon as possible, it was deemed necessary to amputate

the

the leg above the knee, which operation was successfully performed about 8 o'clock P.M.

Since that time the Count has rested easily without fever and the symptoms have all been of a favorable character.

The sailing of the steamer by which this despatch will be forwarded, takes place too soon to enable me to announce to you the pleasing intelligence that the crisis is past and that he is out of danger. Yet there is much reason to hope for such a result. The Count is a man of good health and habits and still in the prime of life, placing the chances much in

his

His Favr.

The news of the assassination reached me at the "Roku-mei-Kan," a social club frequented by diplomatic and other gentlemen, some distance from the Legation and near to the Foreign Office. Finding that to send for my carriage would delay me in reaching and formally offering my aid and sympathy to the wounded Minister and His Countess, and Mr Dun, our Secretary of Legation happening to be at the Club with me, we ordered jinrikisha and proceeded at once directly to the Counts residence, reaching there about 5 o'clock.

We

We found the Prime Minister, Count Kuroda, and several other members of the Cabinet as well as some of the Diplomatic Corps, already arrived upon the same errand and in attendance.

We found that troops had been stationed around the building and precautions taken against Emergencies, though so far as I know it was merely a measure of precaution and in fact not needed.

As for the miscreant Kuruchima, the assassin, he did what it seems all Japanese do, under similar circumstances; what was entirely to be expected of him; and, what renders the problem

of Japanese civilization so
Exceedingly doubtful and perplexing
to all interested in it; that is
to say, immediately upon hurling
his missile and without waiting
to take note of the result upon his
victim, he whipped out a knife
brought along for that specific
purpose and cut his own throat,
severing the jugular vein and
was dead before any body had
time to think of arresting him.
Mr Denison of the Foreign Office
who was in the building and
who hurried forth upon hearing
the explosion told me that when
he reached the scene, he saw the
smoke still lingering in the air
over the place and at the same

time

the body of the perpetrator of the deed lying, apparently quite dead, close by. He is understood to have been a young student; whether he had accomplices, is not as yet known to the public. In fact the affair is in the hands of the police who keep their own secrets.

It is worthy of remark that it is understood the assassin is a student of Chinese. By that it is meant that his education is entirely Oriental in its effect and tendency and prosecuted by a study of the Chinese ideographic characters, beginning and ending in Oriental and therefore conservative processes and objects and that he knew nothing of European

learning and Western ideas,
which can only be reached by
the study of some one of the
European languages and of
course the Roman alphabet.
Of the origin, bearing, tendency
and effect of this last anomaly
some, and other similar acts,
I shall avail myself at an
early day of making some
suggestions and remarks.
At present it will suffice to
say that it will probably
suspend progress upon treaty
revision for some time, possibly
indefinitely. Treaties not
already concluded will most
likely be laid aside to await
the movement of Japanese
politics

politics.

It is now known that there was an actual Cabinet Crisis pending in the Government at the very moment when the assassination occurred. Although it had not been publicly announced it is understood, that Count Inouye had resigned his portfolio and that but for the injury of Count Okuma, there would have been a general Change, if not of persons, certainly of places. All is for the moment held in suspense and what will happen it would be idle to predict.

I have the honor to be

Sir

Your obedient Servant;

John F. Swift

DEPARTMENT OF STATE
NOV 13 1889
RECEIVED.

DIPLOMATIC BUREAU
NOV 13 1889

No 67.

L.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
NOV 13 1889

Legation of the United States.
Tokio Japan Oct 22. 1889

Mr Swift.
To the Secretary of State.

Subject.
Viscount Aoki will assume charge of Department for Foreign Affairs during Count Okumas illness.

No. 67. Legation of the United States.
Tokio Japan. Oct 22. 1889.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir:

I have the honor to inform you that I have this morning received an official communication from Viscount Aoki, Vice Minister for Foreign Affairs, notifying me that during the illness of Count Okuma, he (Viscount Aoki) will take charge of the Department for Foreign Affairs.

This is understood to indicate a strong support in the Cabinet and by the Emperor of the policy of Count Okuma

Okuma with respect to treaty revision and that it will be pushed on.

Had the Government been disposed to give way to the opposition and suspend or abandon the scheme, this occasion could, and probably would, have been availed of to substitute, in the place of the injured Minister, one from the outside with different views, which could have been done within precedent inasmuch as the office of so called Vice Minister is so only in name. He is actually only Secretary General and his administration during Count Okuma's illness will be that of Count Okuma virtually beyond doubt.

I write this hastily just at the closing of the mail, as I deem it an important circumstance, and worthy of a special despatch.

I have the honor to be
Sir,
Your obedient servant
Joseph H. Longford

DEPARTMENT OF STATE
NOV 18 1889
RECEIVED.

DIPLOMATIC BUREAU.
NOV20 1889

No. 58.

Legation of the United States.

Tokio Japan, Oct 28: 1889.

Rec'd 2/Nov

2D ASSISTANT SECRETARY.
Ack as read with great interest -
NOV 19 1889

Mr Swift:

To the Secretary of State.

Subject:

The attempted murder of Count Okuma and how political assassination is looked upon by the Japanese

No. 58. Legation of the United States.
Tokio Japan. Oct 26. 1889.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir.

The recent attempt upon the life of Count Okuma, is a circumstance so eminently characteristic and indicative of the actual stage of social and political progress, reached by the people of Japan in the process of evolution, that I feel it my duty to refer to it again.

The event was not unexpected.

The probability that His Excellency the Minister of State for Foreign Affairs, would be attacked by some fanatic

and

and possibly killed him, in my hearing, been a frequent subject of discussion within the last two months, and always by men strongly inclined to him, and who admire him, as every one does in Japan, so far as I can see, and whose only regret was, that they were utterly powerless to protect him from the dangers, with which they believed him to be menaced. Indeed one of these, an old resident of this country and familiar with the people declared in my presence, that Count Okuma was "liable to be killed by some one of his own bravest friends." That some Japanese Brutus might, at any time rise up in his own immediate personal circle, and remove him, in the supposed interest of Japan.

It is well known that for months

last

past Count Okuma in common with the
in the Cabinet-
most, if not all of, his colleagues, has,
whenever venturing out of doors, been
constantly attended by body guards,
and in fact has taken every possible
precaution against attack.

But it is difficult, at first thought, to
realize how utterly inadequate and
useless, is any conceivable defense against
the murderous contrivances, of an
class of fanatics who make suicide
a part of their scheme of assassination.

It is doubtful if an armor so
impregnable could be invented, or a
casemate constructed strong enough
to protect the life of a man, from the
attack of one who has devoted his own
to the enterprise, and who intends to
destroy himself along with his victim.

Ill

In fact it is scarcely an exaggeration, to say that Count Okuma's life may have been actually saved by the blunder of this particular assassin, in adopting as a weapon, the noisy but often ineffective dynamite bomb, instead of the silent, but almost infallible, Japanese short sword.

What this man failed to do with this modern chemical, another, but for his failure might have accomplished with the ancient glistening razor edged steel of the country. But for this failure, instead of his leg it might have been his life. Count Okuma himself must have had the contingency constantly in his mind as a possible result; liable to intervene at any time and baffle him in his work.

The

The first words published, as having been uttered by him after receiving his injuries, were addressed to the Prime Minister, Count Kuroda and were in substance; "they have beaten me". He did not require to be told of the nature or quality of his assassin. That probably flashed through his mind with the detonation of the bursting shell. And, if I interpret this speech correctly, it indicated an acquiescence or surrender, not to the accidental or unexpected, but to an element of the problem figured upon in the original estimate, one of the legitimate obstacles to be contended against and if possible overcome.

That he pushed forward his measures in the face of such terrible risks to

life

life, proves, if proof were needed, the lofty courages, moral and physical, as well as the patriotism and other splendid qualities of this statesman.

It is evident that no personal ill will moved the perpetrator to attempt Count Okuma's life. He could not have more than known him by sight. Personally the Minister for Foreign Affairs is one of the most popular public men in Japan. His presence is more than ordinarily attractive. His bearing is unusually courteous even amongst Japanese, a people who excell in outward demonstrations of politeness. His reputation, public and private, is without a stain. He has distinguished himself by his charity and

and public spirit, as well as by the wisdom and elegant taste with which both have been manifested and carried into effect. He has established an extensive and well equipped College of Education near his country house free to all, personally overlooking its operations and paying its expenses out of his own private purse. This is the more notable from the fact that Count Okuma is not a rich man, even for Japan. That such a man while jealously carrying out measures intended for his country's welfare, in which he is supported by a larger and intelligent body of his people, should be attacked with savage ferocity and his life imperilled and this by another

patriot.

patriot acting confessedly upon the same baffling motive, and that the public should accept both assassin and victim as equally worthy of admiration, is indeed a curious state of things.

It seems, at least, when looked at superficially, which is all I am able to do, to point to the conclusion that in Japan, assassination is a recognized, if not legitimate method of accomplishing political ends. And it seems to me that the causes of this state of things are not hard to discover. It is only necessary to examine even in a superficial way the literature of the country to learn that in Japan the assassination, under certain circumstances, of prominent men has

men has always been looked upon as laudable. In fact it may almost be said to have become a matter of religious faith and practice. To render it more attractive and therefore harder to dislodge from the common mind, it is hopelessly mixed and interlaughed with the sentiment of loyalty to country, and fealty to feudal chiefs, patrons, family and kindred.

It is a common thing at least in this generation, for Europeans and Americans of Christian origin, but of skeptical turn of mind, remembering perhaps, how remote from realization in practice, are Christs teachings of love and mercy, and how unapt Christians are when

when smitten upon one cheek to turn the other, to question the actual benefit of such entirely unapplied doctrine. But the doubter should come to Japan and watch the operation and outcome of lessons, the antithesis of those of the Savior of mankind. I cannot help thinking that if he did so, the most skeptical European or American free thinker, would recommend the immediate christianization of that people, as a purely political measure, ... leading to good government and as absolutely essential as a condition precedent to any genuine progress towards western civilization.

Here, homicide when committed

to

to avenge a [illegible] technical insult or injury to a chief or patron, or from so called motives of patriotism, and especially when the assassin adds suicide to the original crime, sanctifies the act, endears the murderer to the popular heart, and assures to him after death a veritable apotheosis. And this is the natural and inevitable result as it seems to me, of the best liberature and clearest traditions of the Country. The young Japanese of liberal birth and education gets his inspiration to what he considers noble deeds, from the dramas of "the 47 Ronins". and similar romantic tales This story is

is the epic of Japan. Either in prose or in verse, in song or in drama, it is said or sung or declaimed every day in the year in every part of Japan and possibly in every house.

It has spread even beyond the limits of the Empire, and has by enthusiastic admirers been translated into various languages. Mitford in his "Tales of Old Japan" has in a most captivating manner rendered this Japanese classic into English. It appears to possess a charm to men of other lands whom, if they ever stop to reflect, must find it grudged from every ethical standard, utterly revolting. The story, which, to add

add to its pernicious ness, seems to be historically true, tells of a great feudal Lord, who had been slighted by another, within the precincts of the Shogun's Palace, so that he could not, out of respect for the place, resent it; and afterwards died before he could be avenged upon his enemy; And how forty-seven of his retainers resolved to do justice to his memory. After carefully laying their plans, they unexpectedly broke into the house of the doomed Chief, cutting down his servants who offered defence, and made their way to where their Enemy was secreted. Dragging the trembling wretch from his hiding place, they all fell upon their knees before him

and

and with such and such words brought
him to observe, and acknowledge the
said obligation they were under of
becoming his Executioners in honor of
their late Lord; to forgive them for
what they were about to do, and above
all things, to relieve them of the painful
necessity of taking his life, by ripping
open his own belly with their late
Lords sword, which they there and
there tearfully and prayerfully ten-
dered him for that purpose.
Upon his declining to do so, in
which I venture to think he was
entirely justified, they proceeded
solemnly and reverentially, to
cut off his head, and to carry it
away to their late masters tomb.
Having arrived there, they carefully
washed

washed it at a well hard by. They then devoutly laid it on their dead lords grave, and on the spot all, to the full number of forty-seven, forthwith committed suicide. There their bodies were found, along with that of a bystander, who happening to be casually looking on at the sad but honorable and glorious ceremony was so filled with admiration, that he pulled out his own weapon, and then and there disembowelled himself. As this was an actual occurrence here in Tokio, and only two hundred years ago, the graves of these forty-seven assassins, along with that of their ambitious imitator, making forty-eight, all told, are to be seen at this day,

objects

objects of supreme interest.
All true Japanese make regular
or occasional pilgrimages to them
with offerings of flowers and incense.
Both of these are kept fresh the year
around at the shrine of the "47 Ronins"
not far from the Shiba temple.
European and American tourists
pay their respects to this spot
and the more emotional, often go
away filled with admiration
for the memories of "old Japan."
Yet stripped of the glamour of
poetry and disjointed sentiment,
and measured by any standard
under which a civilization worth
preserving can possibly exist, a
more detestable band of cut-throats
never invaded a home, nor
plotted against the peace
and

and welfare of society than these
same "47 Ronins."

And so the graves of all the political
assassins of Japan seem to be
turned into monuments of honor.
The body of the misguided wretch
who less than a year ago cut down
Viscount Mori, formally Minister
at Washington, one of the most
enlightened men of Japan,
is decorated daily with slips
of paper bearing prose or poetic
effusions, written by those who admire
his heroic act. And the sentiment
is so deeply fixed in the national
character that the intended victims
of the attacks, the Government officials
themselves, though having absolute
and uncontrolled power, see no

objection

objection to the popular canonization of the assassin and offer no impediment to it. I observe that many native newspapers speak of the assassin who attempted the life of Count Okuma with the greatest tenderness and respect, dwelling upon his supposed fine qualities and I understand his funeral has been marked with the same peculiarities I have already described as customary in Japan under similar circumstances.

Some years ago a political fanatic made a savage attack, which barely failed, upon the life of Count Itagaki a statesman of distinguished ability and high character. The motive when

when stripped down was nothing more than a disagreement of political opinions. The assassin was sentenced to a long term of imprisonment: within the last few months at the earnest solicitation of his intended victim, the man was pardoned and restored to liberty. A public reconciliation then took place between them, on which occasion Count Itagaki fully conceded, by implication at least, the entire justification of political assassination.

Addressing the late criminal, he said: "Had my purpose been "such as you supposed, you would "have been entirely right to kill "me: and further if I ever shall

at-

"at any time hold such views
"I am quite willing you shall
"take my life."

In conclusion I venture to suggest that the influence of the United States upon the Japanese Government and people as well as upon the conduct of other Powers in their diplomatic intercourse therewith, is so considerable that extraordinary caution should be used in its employment. To ensure this degree of caution in our diplomacy a complete understanding by the Department of State at Washington of the actual condition of things here is essential. For that understanding and that it shall be as complete and accurate

as

as possible, I feel myself responsible.
I do not think the actual condition
of Japan is as fully understood
in the United States as it ought
to be. Indeed I think there has
been in the past a marked
misunderstanding of it. I do
not think this misunderstanding
has injured or is likely to injure
the United States as much as
Japan, but it does to a greater
or less extent, do harm to both.
This is my excuse for writing
with so much freedom about
things so delicate in their nature
and touching so closely upon
just and natural susceptibilities.
That once understood, they need
not and ought not to be further

dwelt

dwelt upon.

I have no hesitation in giving it as my opinion that the action both of Germany and of Russia, in signing as they have done during the last summer, treaties which follow close upon the lines of the one signed between Japan and the United States on February 20. the last, was largely, perhaps wholly due to the belief on the part of the representatives of those states, that our Government had concluded a satisfactory treaty, and in doing so, that our representative had acted with both promptness and wise deliberation, befitting so important an act, especially when done in behalf of such a State as the American

American Union. And now that it has become manifest that the reciprocal agreement providing for unrestricted and unlimited residence and land ownership on the part of the respective nationals of the two countries, has perhaps justly alarmed and excited the Japanese to a spirit of protest and resistance, ~~to~~ sufficient to, originally disturb the public peace and to wreck an administration composed of the most intelligent and patriotic statesmen in Japan, it is only proper to inquire to what extent if any the improvidently used influence of the United States has been at fault. And if I am correct in the view I have intimated

in

in former dispatches and still entertain, that the stipulation is one unusual between Civilized States, and a complete innovation in diplomacy; that it was wholly unnecessary to either Japan or the United States, and in the application likely to prove injurious to both; and finally that the treaty as signed never stood the slightest chance of being accepted by the United States Executive, nor confirmed by the Senate, it seems to me, that the Conclusion of such a treaty the powerful influence of our Government has been recklessly trifled with and misapplied

I have the honor to be
Sir
Your obedient servant

John F. Stevens

DIPLOMATIC BUREAU

NOV20 1889

DEPARTMENT OF STATE
NOV 18 1889
RECEIVED.

No. 59.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
NOV 19 1889 aar

Legation of the United States.
Tokio Japan, Oct 26. 1889.

Mr Swift.
To the Secretary of State.

Subject.
The present Cabinet Crisis in Japan.

No. 59. Legation of the United States,
Tokio Japan, Oct. 26. 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

Although I have up to this time received no official communication indicating any change in the personnel of His Imperial Japanese Majesty's Government, save the temporary appointment of Viscount Aoki to hold till Count Okuma shall recover from his injuries. Yet it is now evident that an actual Cabinet crisis was on at the very time of the attack upon the life of that official and that it still exists. It is reported in the native papers, and is probably true, that on Thursday last, (the 24th)

(the 24th), eight of the eleven members of the Cabinet presented their resignations, namely: Count Kuroda (Minister President of State or Prime Minister); Count Yamagata (Home Affairs); Count Saigo (Navy); Count Oyama (War); Count Yamada (Justice); Count Matsugata (Finance); Viscount Enomoto (Education); and Count Goto (Communications). On Friday evening, the 25th instant, it was announced in the Official Gazette, that Prince Saigo had been appointed Prime Minister in the place of Count Kuroda, who at the same time was announced as a member of the Privy Council.

Nothing beyond this is publicly known, but rumor, perhaps, in the main correct, goes considerably further. According to this the new Premier is to retain his present post-

post of Lord Keeper of the Privy Seal, and that he has been charged by the Emperor with the duty of reorganizing the Cabinet; and that the changes will not be numerous, in fact will not exceed two or three in addition to Count Kuroda already resigned. And finally that Count Ito may again come to the front in some prominent place.

All this is exceedingly likely. During the entire history of Japanese politics, so far as known, for some reason not very well understood, governmental crises always culminate in what may be called "a fresh deal with the old pack". To change this so that retiring officials disappear wholly from place seems to require a revolution.

Prince Saijo, the new Premier is not one of the Princes of the Imperial House, but

of

of somewhat lower degree. He is what is called a "Kuruge", which, as near as I can understand it, is a noble attached to the ancient Court of the Mikado, possibly a relative in some distant way of the Imperial family. This places him in rank above the Daimio class and, therefore, above the necessity of clan politics. I may here mention that the practical politics of Japan are clan politics. That the actual government of the country so far, at least, as the personnel of the officials is concerned, has been ever since the revolution of 1868, in the hands of the two victorious clans of that war, namely: Satsuma and Choshiu.

The leading Satsuma men are.—
Kuroda, Oyama, Saigo and Matsugata.
The Choshiu leaders are: Ito, Inouye,

Yamagata

Yamagata and Yamada. It is not at all likely that any administration will be made up in which a majority of these names will not appear.

It is said that Prince Saijo by his close relations with the reigning family, does not require Clan backing to hold his place, as the most of the present Cabinet officers do. Because of this exalted quality, he is called in at this time of heated personal contention between the real men of affairs, to calm matters down and reconcile disputes and disagreements between the great Clan leaders who control the government ordinarily; and that his incumbency is entered upon reluctantly on his part and will only last during the passing emergency.

This

This is not his first incumbency of the post. He was Prime Minister in 1888, and resigned in favor of Count Ito, who succeeded him on the 22nd of December of that year.

It is now apparent that the popular fear of foreigners has had a sudden renewed spasm, either spontaneous or adroitly worked up for political effect, which I am unable to say, and that the immediate moving cause is the treaty concession of the general right of foreign residence and land ownership throughout the country. This has produced the Cabinet crisis beyond question. And whatever else may follow it certainly indicates a peremptory negative of, at least, that much of the policy of Count Okuma.

Among

Among rumors flying about, is one to the effect that Viscount Aoki will, in the new Ministry, succeed to the portfolio of Foreign Affairs in the place of Count Okuma. The standing and strength of Viscount Aoki, would not, under ordinary circumstances, it is thought, render this change likely to occur. But it is said that just now no strong man can be found willing to take the place. The current talk is to the effect that the failure of the late last Ministers, Inouye and Okuma, to satisfy the country in their treaty revision measures, has made all the leading statesmen afraid to venture upon the stormy sea of foreign affairs, and that

for

for a time the office is likely to go begging.

Viscount Aoki was educated in Germany and resided there for a number of years. He is credited with a strong bias in favor of that country and every thing German, and also, I am sorry to say, with a pronounced dislike to the United States and every thing American.

This is the state of things Saturday Evening the 26th of October. The "Oceanic" with the mails does not sail until Tuesday the 29th. Should any thing of consequence occur before her departure, I will endeavor to inform you of it in a brief dispatch.

I have the honor to be
Sir
Your obedient servant,
John F. Swift

From U. S. Legation to Japan

DEPARTMENT OF STATE
NOV 1 1889
RECEIVED.

DIPLOMATIC BUREAU.
NOV 1 1889

Tyler, Texas,
Oct. 28. 1889.

Hon'l. James G. Blaine,
Secretary of State,
Washington,

Sir,

I have the honor to enclose herewith my a/c for salary while in transit from my post of duty at Tokio, Japan, to my residence at Tyler, Texas,

I have the honor to request that you will honor my draft on you for the amount of enclosed account.

I beg to acknowledge the sincere obligations under which the Department has placed me in securing for me, as a returning officer, courteries at the Custom House at San Francisco.

With best wishes for a successful administration of your high office and with assurances of warm personal good will toward you,

I have the honor to be, Sir,
Your obedient servant
Fred'k. S. Mansfield
Ex-Secty of Legation at Tokio.

DEPARTMENT OF STATE
NOV 27 1889
RECEIVED.

DIPLOMATIC BUREAU
NOV 29 1889

No. 60.

2D ASSISTANT SECRETARY.
Ack as read with much interest -
NOV 27 1889

Legation of the United States.
Tokio Japan Nov. 4. 1889.

Mr. Swift:

To the Secretary of State.

Subject:

The political situation in Japan.

No. 60. Legation of the United States.

Tokio Japan. Nov. 4. 1889.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir:

As yet no official communication touching the Cabinet-crisis, save the announcement as to Viscount Aoki's appointment to the Foreign Office during Count Okuma's illness, has reached this Legation. It is, however, generally believed that on the 21st ultimo, all the Ministers, who had not previously done so and except Count Okuma, who was confined to his bed by his injuries, sent in their resignations and that on the 28th ultimo, the Emperor officially declined to accept them and at the same time commanded

commanded the officials to continue in their places.

This is believed, however, to be merely a temporary arrangement.

It seems to be understood that some time prior to the attempt upon the life of Count Okuma, the anti-treaty revision agitation had assumed such proportions, as to cause the entire Cabinet to hesitate, while a portion of them favored a suspension of the negotiations. It is further understood that about twenty days ago it was substantially agreed to delay matters till Count Yamagata should return to Japan in order that they might have the benefit of his judgment and influence. Count Yamagata, it will be remembered, is the Minister of State for Home Affairs in the present Cabinet. For the past year, he has been absent

absent in Europe, during which time his colleague Count Matsugata, Minister for Finance, has been conducting the affairs of Count Yamagata's post, as well as his own. It was very uncertain which side the absent Minister would take on his return. He arrived home on the 23rd ultimo, and it is said at once announced that, in his opinion, the country was not in condition to accept the changes involved in fulfilling the stipulations of the new treaties, and that his judgment was in favor of suspension. The attitude and opinion of Count Yamagata were known to the Cabinet, but not to the general public, at the time of the attack upon Count Okuma.

In fact it may be said that the immediate treaty revision programme was already broken down some days before

before that shocking occurrence; and that the murder of the Count was planned and attempted to bring about a result that in fact had already been accomplished.

It is thought that within a short time, awaiting for the recovery of Count Okuma, who is now considered out of danger, there will be a reorganization of the Cabinet.

That Count Okuma will retire but as to his successor, that is admitted to be uncertain. As I mentioned in a former despatch, Viscount Aoki's claims for the place are pressed with some chance of success.

The opinion is universal that the negotiations for treaty revision will be suspended for the present which, of course, means practically that they are broken off upon present lines.

Various

Various theories are given for the popular objection to the new treaties. I will not attempt to enumerate them. They are almost as numerous as the respective individuals discussing the subject. My own opinion is that people fear that foreigners will overrun the country, monopolize its commerce, buy up, or otherwise come to possess the land, and thus impoverish the Japanese.

That such a thing would occur, I do not believe and for reasons which I have given you at considerable length in former despatches. But that the people are, to some extent justified in fearing it I freely admit. That so long as they are uneasy upon these points, the rulers of the country are wise in respecting their fears and postponing

the

the matter, is beyond question.

While filled with the greatest admiration for the statesmen of Japan, in view of what they have manifestly accomplished in the face of great difficulties, it has been my opinion from the day of my landing upon the shores of Japan, which opinion has been strengthened by all I have seen and heard, that they are trying to cover too much ground in these political innovations they are so energetically pushing forward. They are endeavoring in a single life time to do the work of centuries. In this stupendous project they have been urged forward, in a large measure by their own patriotism and high national spirit; forgetting, or overlooking how much they themselves are in

advance

advance of the great masses of the nation back of them. In speaking of the leaders being so much in advance of the nation, I, of course, refer to the supposed goal of Western civilization and manners. To say that the Japanese are an uncivilized people would be a gross libel. They are in many respects a wonderfully civilized people. I am disposed to think the real difficulty lies in precisely that direction. It is not civilization - Japanese statesmen are striving for so much as westernization. I am not certain but an actually barbarous nation could be westernized in less time than the Japanese can be. It is not so much what they must learn, to assimilate themselves with

with Europe and America, as what they have to unlearn. Their civilization is Oriental. This is suited to their character and wants as their society is now organized. It is the Superior classes who have visited Europe and America, and have admired what they saw there, who are anxious to throw off the old and assimilate the new civilization at once and in their life time. With the nation as such it can only be done in a measure, and the best friend of the country is he who will tell them to make haste slowly.

I have the honor to be

Sir

Your obedient servant

Jonathan Wright

Ack & file

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREA
DEC 7 1889

No. 61. Legation of the United States,
Tokio Japan, Nov 8, 1889.

Mr Swift.
To the Secretary of State.

Subject:
Letters rogatory, desired inquiries
will be made.

No. 61. Legation of the United States.
Tokio Japan. Nov. 8. 1889.

Hon. James G. Blaine.
Secretary of State,
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your circular instruction, dated Sept: 18. 1889. relative to Letters rogatory.

The matter will receive my immediate attention.

I have the honor to be
Sir.
Your obedient servant;
John F. Swift

Left by Mr. Hale

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREAU
DEC 7 1889

No. 62.

Legation of the United States,
Tokio Japan, Nov. 8. 1889.

Mr Swift.

To the Secretary of State,

Subject:
International Maritime Exhibition
at Boston.

No. 62.

Legation of the United States,
Tokio Japan, Nov. 8, 1889.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of Circular instruction dated September 21. 1889, relative to the International Maritime Exhibition to be held at Boston from Nov 4. 1889 to Jany 4. 1890.

The matter will receive my immediate attention in accordance with the expressed wishes of the Department.

I have the honor to be

Sir,

Your obedient servant;

John F. Swift

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREA
DEC 7 1889

No. 63.

Legation of the United States.
Tokio Japan, Nov 8. 1889.

Mr Swift.
To the Secretary of State.

Subject.
Weights and Measures of Japan.

No. 63. Legation of the United States.
Tokio Japan, Nov 8, 1889.

Hon James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of circular instruction, dated Sept. 27, 1889. requiring information relative to the weights and measures of Japan.

A copy of the circular has been transmitted to H. I. J. M's Government and the desired information requested.

I have the honor to be
Sir
Your obedient servant;
John F. Swift

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREAU
DEC 7 1889

No 64.

Legation of the United States,
Tokio Japan, Nov. 8, 1889.

Mr Swift:

To the Secretary of State.

Subject:

Receipt of instructions.

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

No 644

Legation of the United States.
Tokio Japan, Nov. 8, 1889.

Hon James G. Blaine
Secretary of State.
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your instructions, numbered respectively from 27, to 33, both inclusive, and of your circular instructions dated respectively Sept. 6th, 18th, 21st; and 27th, 1889.

I have the honor to be
Sir,
Your obedient servant,
John F. Swift

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREA
DEC 9 1889

No. 65.

Legation of the United States.

Tokio, Japan, Nov. 8. 1889.

2D ASSISTANT SECRETARY.
Give to Press. Done 9 Dec
Ack accordingly - ack'd 10 Dec
DEC 7 1889

Mr. Dwight:

To the Secretary of State,

Subject.

Emigration of Japanese to Hawaii,
another batch of 1030 Coolies, leave
for that Country.

No. 66. Legation of the United States.
Tokio Japan, Nov 6. 1885

Hon James G. Blaine
Secretary of State.
Washington DC.

Sir:

I deem it my duty to inform you that another batch of cooly emigrants numbering one thousand and thirty (1080) sailed yesterday for Hawaii under the usual contract to labor on the sugar plantations of that island.

The "Japan Mail" of this morning discusses the matter and remarks of them "that they were healthy-looking "sturdy folk evidently pleased "at the prospect before them, as indeed they

"they might reasonably be, Experience
"having shown that Hawaii means
"a few years of steady labor and
"a good bag full of gold dollars
"for the Japanese who are fortunate
"enough to emigrate thither."

This makes the second shipment
of 1000. during the present Autumn
I having informed you of the
first in a former despatch.

I have the honor to be
Sir.
Your obedient servant.
John F. Swift

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREAU.
JAN 9 1890

No. 66.

10 Inst

Legation of the United States.

TO ASSISTANT SECRETARY.
Ack'd by subject & file.
JAN 8 1890

Tokio Japan, Nov. 11. 1889.

Mr Swift:

To the Secretary of State.

Subject:

Count Inouye and the present situation in Japan.

No. 66. Legation of the United States.

Tokio Japan, Nov. 11, 1889.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir.

I have the honor to enclose, herewith, two Editorial clippings from the "Japan Herald", one of the 9th, the other of the 11th. instant; tending to show the present attitude of the Japanese Government and people with respect to treaty revision, to which I call your special attention.

It will be observed that in the article of the 9th. instant, the position of Count Inouye is regarded by the writer as an important factor in the situation.

Your

You will doubtless remember that this distinguished statesman, while Minister for Foreign Affairs undertook to obtain a revision of the treaties through a general diplomatic — Conference of all the treaty Powers, which he managed to assemble at this Capital in 1886. That Conference had various sittings during that year and in the first half of 1887, the protocols of which are in Your possession at the Department of State. The proceedings show that the Japanese representatives appeared to be in accord with the general drift of opinion along with the other delegates and that throughout the entire period of the negotiations — every thing seemed to promise an

adjustment

adjustment to their entire satisfaction.
It was early decided that the
final result and outcome of the
deliberations of the plenipotentiaries
should be embodied in separate
conventions; 1st, a Jurisdictional
Convention, providing for and fixing
the personal status and judicial
rights and liabilities of foreigners,
and other Powers, one of which was
to establish commercial intercourse
and tariff, trade and navigation
regulations. The tariff Convention
was soon provided for, it being
given out to a committee who
worked out the plan in substance
that found its way into our
last treaty of February 20, 1889.
After that the conference fur over

a

a year occupied itself chiefly
with the Jurisdictional treaty.
They seemed to be getting on with
reasonable harmony, the Japanese
accepting with little objection the
proposals of the foreign delegates.
During the progress of the negotiations
it was substantially agreed on
the part of Japan and accepted
by the powers that the country
would be thrown open to foreigners,
who would be free to enter, travel
and reside every where, and to
carry on all kinds of business
and to own land on an equal
footing with native Japanese,
but submitting themselves to
Japanese law. But Japan
was to first establish laws
in

"in accordance with Western
principles" and to the satisfaction
of the foreign representatives.
In fact the Codes which were
enumerated by name were to
be submitted to them before
promulgation. And lastly a
certain number of foreign judges
were to be appointed and to hold
for at least fifteen years.
Having reached this point - to the
apparent satisfaction of all concerned,
and after fourteen months of amicable
proceedings, the foreign plenipotentiaries
were astonished by the abrupt
request of Count Ito, the President
of the Conference, that the proceedings
be adjourned substantially to
"that day six months" which
request -

request was manifestly a breaking off of further negotiations and that every thing was off. Having brought the Conference to an end Count Inouye soon after resigned his portfolio of Foreign Affairs. He however remained in the Cabinet in the minor position of Minister for Commerce and Agriculture.

Soon after Count Okuma came into the Foreign Office he instituted negotiations for treaty revision but by a different method. What Inouye attempted in gross he set about accomplishing in detail. He negotiated with the Powers separately and for a time with brilliant results. Leading off with our own

treaty

treaty of February 20, 1869, during
the summer just past he concluded
treaties with Germany and Russia.
A like compact with the Swiss
Confederation has been got ready
for signature, and he has brought
France and Great Britain well
forward and upon the road to similar
success. While this was going
on Count Iwakura, for some reason
not very well understood, at least
to outsiders, has been believed
to be dissatisfied. Early in the
year last ——— after Count Okuma's
splendid achievement; obtained in
his American treaty, Count Iwakura,
I think in June, presented to
the Emperor his resignation as
Minister for Agriculture and

Commerce

Commerce. It was not accepted, but neither was it withdrawn. It merely lay on the Emperors table.

During the summer Count Inouye continued in office but remained much away from his Department on the plea of ill health. It was reported in foreign circles that he was for some reason "sulking in his tent." On making inquiry, as I did industriously on all sides for the key to what was going on, I was generally told that "Inouye was jealous of Okuma "and did not like to see his "successor at the Foreign Office "succeed where he, Inouye, had "failed." Being practically unacquainted with the ways

of

of the Country, and the suggested motives of the retired Statesman not being strongly at variance with my observation of political motives and conduct in other parts of the World, I naturally accepted this solution as, at least, sufficient with some probability that the story possessed a reasonable degree of accuracy.

I have now however come to the conclusion that, in this, great injustice was done to Count Cavour and that he had from the first differed from his colleague's views, upon substantial grounds. In fact that he had found from actual observation and experience that a settlement of the question upon the lines he, himself, had marked

marked out in the beginning of the Conference deliberations was not practicable because not in accordance with the wishes of the masses of his own countrymen. In fact it is now apparent to my mind that Count Okuma must have discovered that he was treading upon dangerous ground; and that this was the cause of his sudden change of policy indicated in his dissolving the Conference of 1886. That he found himself running counter to Japanese interests, fears or prejudices, to an extent not consistent with the public peace, nor, possibly even with his own personal safety. Probably he foresaw what has

happened

happened to a similar effort at treaty revision this present year, and stepped aside to avoid a similar result.

On looking over the archives I find evidence tending to strongly confirm me in this opinion.

I find that the treaty of Feby. 20, 1889, differs in several respects from what seems to have been Count Inouye's views, expressed in a confidential communication to Governor Hubbard as recently as early in June 1888, and the difference is upon points most serious and vital. This communication was transmitted to the Department of State by Governor Hubbard as an enclosure with his

his "confidential" despatch No. 479. dated June 15. 1888. In that despatch No. 479. Governor Hubbard enclosed to Mr Bayard "a proposal for a new treaty," which he informs Mr. Bayard had been handed to him by the Foreign Office. It further appears that this project had been formulated by Count Inouye, at the request of Counts Itō and Okuma, and was drafted in order, amongst other things, to avoid the objections of the so called "opposition party" of Japan, who had broken up the Conference scheme and caused the failure of the efforts at treaty revision. Governor Hubbard also encloses to Mr Bayard his own criticisms upon Count Inouye's

treaty

treaty draft as well as a counter project also of his own. But as I have not been able to find copies of any of these enclosures in the archives of this office, I have no means of knowing what any of them contained except Count Inouye's scheme, which I obtain from Mr. Bayard's reply to Governor Hubbard's No. 479. which is to be found in his No. 234. dated August 13. 1887.

From this I am able to learn what Count Inouye's plan of treaty revision when modified by the clamors and threats of the "Shosi" involving their peculiar methods of accomplishing political results had come

to

to be, one year after the dissolution
of the Conference of 1886.
"The general features of Count
"Inouye's plan" (so writes Mr Bayard)
" appear to be as follows:
" The opening of Japan to foreigners.
" they being subject to exclusive
" Japanese jurisdiction outside
" of the present settlements.
"2nd.— Consular Courts to enforce
" Japanese laws and regulations
" in the foreign settlements."
"3rd.— Foreigners not to be allowed
" to acquire real estate, outside
" the foreign settlements until
" after the complete abolition
" of Extra-territorial jurisdiction"
"4th.— Concession of Complete Autonomy
" to Japan on tariff matters and
the

" the principle having been
" granted, the Commercial treaty
" drawn up at the last Conference
" to be put into operation for a
" term of years substantially
" as it now stands
" 5th.- Consular jurisdiction to be
" abolished immediately upon the
" completion of the Japanese laws.

It may now be regarded as reasonably certain that Count Okuma will resign and give place to some one holding substantially the views indicated in the scheme above set forth and it is even quite possible that the new Minister for Foreign Affairs, may be Count Inouye himself.

Mr

In any event it is reasonably certain that new propositions of some kind will, before long, be laid before the foreign representatives for a renewal of negotiations for treaty revision.

That whoever the new Minister may be, the basis for renewed negotiations will be upon lines approaching those indicated in Count Inouye's Communication to Governor Hubbard above referred to, seems to me probable, in view of the change that has taken place.

I have the honor to be

Sir.

Your obe dient servant,

John F. Swift

Enclosures 1 and 2.
Clippings from the "Japan Herald"
Nov 9th. & 11th 89

Enclosure 1. with Mr Swift's No 66

The Japan Daily Herald.

SATURDAY, 9TH NOVEMBER, 1889.

At Rest, or Onward?

To use a nautical simile, Japan, just now, so far as treaty revision is concerned, may be likened to a ship becalmed, or hove to. She is at a dead stand. Breakers have given warning of dangers ahead. Another man has been placed at the wheel. Is an anchor to be dropped? or is a new course to be taken? These are questions which every one is asking, but to which no one appears to be in a position to give an authoritative reply. If a *plebiscite* of the Japanese people were taken, it is not open to doubt, if we may judge by the demonstrations which have already taken place, that there would be an overwhelming majority against the plan of revision which the Government was lately bent on pursuing, but it is safe to conclude that popular opinion will not be specially invoked to decide the issue, though as far as expressed, it will have its influence. Revision was initiated by the higher officials, and has been actively prosecuted by them, without regard to the ideas of the masses; it wholly depends upon the Government whether it shall be pushed on, held in abeyance, or abandoned, as inexpedient. Whatever degree of unanimity prevailed in the Cabinet on this subject following the resumption of office by Count OKUMA, recent events have shown that it no longer exists. The retirement in quick succession, of three members of the Government of the first importance,—Count KURODA, Count ITO, and Count INOUYE, is held by those who are best informed, to be almost entirely due, though accentuated by intrigue and clan politics, to dissension on the vexed questions involved in the well-nigh interminable negotiations which treaty revision has brought into being.

In most states, after such a perturbation as that which this government has undergone, and when several leading members quit office, the resultant changes are generally of such a character, as to afford an indication of what will be the line of policy which the newly constituted administration will be likely to follow. But here, as yet, no clue has been given to guide public opinion to a right conclusion.

The appointment of Prince SANJO to the headship of the administration, since he is regarded as a neutral, possessing no strong views, and without any large public following, gives no promise of affording a solution of the situation. Had his predecessor, Count KURODA, —a man of strong will,—remained at his post, there would have been greater ground for the belief expressed in some quarters, that revision would not be likely to be stopped, since he and Count OKUMA were agreed in opinion on the subject.

The position of Count ITO is an anomaly: he resigns Cabinet office, he is then appointed a Court Councillor, which has not a seat in the Cabinet attached to it, and next we learn, that he is still to be a member of it. Judged by the rule of action which prevails elsewhere, Count ITO's position is scarcely comprehensible, for he is at once out with the outs, and yet he is found to be in with the ins. Under the new arrangement his voice and influence will be just as potential as before, and as he is credited with now being opposed to revision, though formerly such could not have been his attitude, his presence in the Cabinet forebodes antagonism to it.

Prior to the return of Count YAMAGATA, Japanese journals were full of the great things that were to ensue upon it, but so far from him taking upon himself any additional responsibility, and giving a new turn to affairs, he seems, when interrogated as to his views on the question of the day, to be favorable to postponement, on the ground that the arrangements in the interior are not sufficiently advanced to render the throwing open of the country advisable. Such is the opinion which he is credited with having avowed. Count YAMAGATA being Minister for the Home Department, his words carry weight.

Had Count INOUYE consented to remain in power, it is fair to presume that no paltry jealousy of the greater success of his successor in the Foreign Office, in obtaining extra concessions from the Powers beyond those which he secured, would have induced him to withold his countenance and support in the Cabinet from Count OKUMA's policy and plans, therefore it is that Count INOUYE's withdrawal at this critical period, may be regarded as inimical to revision: he was better informed on the subject, by reason of his former negotiations, than any other of his colleagues, with the exception of Count OKUMA, could by any possibility be.

The irresolute and timid members of the Government, who entertain no strong opinions on revision, it may be readily conceived are perplexed as to what, under existing circumstances, is best to be done. They scarcely like to go on defying hostile opinion, with which some of them at bottom, are supposed to sympathise; they cannot fail to have been in some measure intimidated by the all but successful assassination of the Minister, who, by virtue of his office, is charged with the responsibility of negotiating unpopular treaties, of the value of which, so many, and such various doubts are entertained. But Ministers are embarrassed by the consideration, that after most of the preliminaries have been gone through prior to the ratification of the treaties with the United States, Germany, and Russia, the idea of a halt can scarcely be entertained now, and that treaties with the remainder of the Powers must, if possible, be concluded, but to interpose delay in bringing them into actual operation is what recommends itself to the minds of those who are almost afraid to go boldly forward, and yet feel ashamed to stop. But as foreign Governments never sought

revision, and are quite careless about it, no solicitude need be felt should negotiations be suspended. It is universally felt that no case for revision has been made out. Certainly the amended tariff would secure more revenue, but it would be mostly paid by the Japanese people, and the public income, if wisely spent, appears to be equal to the needs of the day. A superabundant revenue is a premium on public extravagance.

When Count OKUMA shall have happily been so far restored as to permit his return to the duties of office, it is but reasonable to conclude, that if still undeterred,—for he is a man of courage,—he will naturally be inclined to put the consummation on his labours by negotiating the balance of the treaties, and if he succeeds with England, the remainder of his task will be comparatively easy. But the enquiry suggests itself, will he obtain the sanction of his colleagues? If not, then his resignation of office should follow.

At this time, when so much turmoil is prevalent, and such a wide diversity of opinion is known to prevail, as well inside the Cabinet as out of it, with but small prospect of unanimity, it is not altogether an inopportune moment to again ask, what particular advantages, if any, are to result to Japan if the treaties are carried through on a similar basis to those of America and Germany, in comparison with what would be had by waiting a while, and by the taking of such measures, as would result in Japan's absolute autonomy being recognised by the Powers. To withhold ratification from the treaties which have been signed, and to abandon the negotiation of the remainder, would be the means of throwing oil on the troubled waters of agitation, and in the end prove to be, all things considered, the wisest course to adopt. The greatest good which the statesmen of Japan could possibly achieve now, would be to abandon revision altogether. To persist in it in the face of existing circumstances, would be a political blunder of the first magnitude.

Duplicate
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Enclosure 2. with Mr Griffis No. 66

The Japan Daily Herald.

MONDAY, 11TH NOVEMBER, 1889.

THE *London and China Express*, received by last mail, gives us a very good example of the dangers incident to the blind leading the blind. In an article headed Treaty Revision and Public Opinion in Japan, we find, after some comments on the opposition to the Codes by the Hogakushi, the following sentence: "The hostility of any considerable section of the people to Count OKUMA's new treaties would be a far more serious matter, but we are fully persuaded that there is no such feeling." This certitude the editor of our London contemporary acquired from reading the *Japan Mail*, and taking every statement found therein as gospel. In view of the later developments of the case, he must feel rather sorry that he trusted so implicitly to what he read. We have, from the first, expressed our opinion of the skill with which Count OKUMA had conducted the negotiations, and our conviction that the concessions by the foreign powers were as great as could possibly be expected by Japan, and that therefore, from her point of view, she would be very wise to accept those treaties to which Count OKUMA had, with so much trouble, already procured the acquiesence of several powers. Whilst, however, admitting this, and acknowledging the great strides which Japan had made towards the recognition of her complete autonomy, it seemed to us unwise to overlook the fact that, despite all this, there was a very strong counter-feeling amongst all classes of the community, from Ministers to agriculturists. Some objected because they felt that the country was not yet ripe for the placing of foreigners under her jurisdiction; some from a dread of the effects which the advent amongst them of foreigners with an unlimited command of capital would have; and a third class objected because foreign powers insisted upon certain preparatory safeguards, and refused to place their nationals unreservedly and immediately under laws, many of which had as yet no existence. These latter, who seem principally composed of the *soshi* class, believed, however erroneously, that Japan already stood upon as high a pinnacle of civilization, both as to her laws and customs, as any other country, and they felt, or pretended to feel, that unless foreigners were at once and for ever placed purely and simply under Japanese laws, their country was degraded, and thus their opposition was both loud and vehement.

All these combined made, however, a very formidable opposition, which it was impossible for any one who took an impartial view of the situation to ignore, but which the *Mail* proved, to its own satisfaction, did not exist; whilst those journals which thought it desirable not to neglect this factor of the situation were attacked day after day on ever changing grounds, and were accused of harsh and unreasonable antagonism to Japan. Experience has in this, as in many other cases, proved which of the two views of the subject was correct, and even the *Mail* itself has been obliged to bow to the stern logic of facts, and to acknowledge that there is and has been a very strong party against treaty revision. Even amongst the Ministers themselves, this dissension has been so strong that the Cabinet has been broken up by the differences of opinion thereon, and we may say that at the present moment the question is no longer as to whether there shall or shall not be an immediate revision of the treaties. That point is, we take it, settled and the principal argument is, for how long a time shall the revision be postponed, whether for a fixed period of longer or shorter duration, or *sine die*. In any case, when the *L. & C. Express*, speaking of the opponents of Count OKUMA's scheme of treaty revision wrote "that they can neither retard nor affect materially the labours in which that statesman is now engaged," it showed an utter want of knowledge of the situation, and if this teaches it that entire trust cannot be placed upon the statements in the *Japan Mail* or the letters of the *Times*' Tokyo correspondent, which are both written with a purpose in view, it will have learned a useful lesson.

According to the *Nippon*, the following rumour is prevalent. It is to the effect that a proposition was made in the Cabinet to postpone the revision of the treaties on the same basis as those already concluded, but another opinion was advanced, and after several conferences it is said to have been adopted, some days ago, by the majority of the Cabinet. It is to the effect that if treaty revision on its present lines were postponed, it would —when negotiations were renewed—come on again with no change in those particular points which are so strenuously objected to by the public. Should this be the case, the principal object of the present change in the Cabinet will be defeated, and popular opinion will be again antagonistic. Rather therefore than have resort to such a temporary plan, it would be better to propose an amended draft treaty to the foreign powers, and then resolve upon the course of the work of treaty-revision according to the acceptance or not of the draft. The points to be amended are: the contradiction to the provisions of the Constitution; the infringement of the sovereignty; and the permission for foreigners to own real estate. If the foreign powers will not agree to these amendments, then treaty-revision will naturally be postponed *sine die*. As, however, some of the new treaties have already been signed by the Minister of Foreign Affairs, the amended draft cannot be proposed so long as that Minister retains his office, even although the Cabinet has been changed. So it is reported that this new idea will not be carried into execution until after a change has been made in the Ministry of Foreign Affairs. The *Nippon*, as is usual in such cases, remarks that it does not know if these rumours are to be believed, but one thing is evident, and that is that should they turn out to be true, they will show a very marked concession by the Government to the force of public opinion, although if foreigners are not to be allowed to own real estate in the interior whereon to build mills, iron-foundries, &c., we fail to see what particular advantage they will derive from the throwing open of the country.

Duplicate
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DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

DIPLOMATIC BUREAU
DEC 7 1889

No 675.

Mr Keller: Please get out copy and send Enclosures desired.

Legation of the United States.
Tokio Japan. Nov. 11, 1889.

Mr Swift:

√ Copies sent Dec: 9, 1889

To the Secretary of State.

Subject:

Request that copies of Enclosures with Mr. Hubbard's No. 479. may be sent to this Legation to complete record.

No. 67. Legation of the United States.
Tokio Japan. Nov. 11. 1889.

Hon James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

Referring to my despatch of this date, No. 66. in which I had the honor to call your attention to certain correspondence between my predecessor, Governor Hubbard and Count Inouye, copies of which were inclosed to Mr Bayard, along with his (Governor Hubbard's) despatch No. 479. dated June 15, 1888, I beg to say that I have been unable to find amongst the archives of this Legation any

thing

thing showing the nature or
contents of said correspondence.
In as much as a knowledge of
what passed between Count Durnege,
the Foreign Office and my predecessor,
may be useful to me should treaty
negotiations be resumed, I ask,
provided it be not incompatible
with the rules of the service, or other
valid objections exist thereto, that
you will have the kindness to cause
copies of said enclosures, accompa-
=nying Governor Hubbard's despatch
to Mr Bayard, No. 479, to be sent to
this Legation to be there kept as part
of the archives.

I have the honor to be
Sir,
Your obe dient servant,
James A. Swift

Requisition to Mr. Griffis to be filled Dec 7 1889 Ord 3 Dec

No. 68.

DEPARTMENT OF STATE
DEC 6 1889
RECEIVED.

Books sent charged by Bureau of Accounts by direction of Asst Sec'y

Sent 23 Dec

DIPLOMATIC BUREAU
DEC 21 1889

2D ASSISTANT SECRETARY.
Buy the 29 vols. wanted for $80 if possible, and send.
DEC 7 1889 aag

Legation of the United States,

Tokio Japan. Nov. 12, 1889.

Mr. Swift;

To the Secretary of State.

Subject-

Request for remaining volumes of U.S. Supreme Court Reports from Vol. 102.

No 68. Legation of the United States,
Tokio Japan, Nov. 2 1889.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir:.

I have the honor to inform you that the Library of this Legation is provided with a complete set of the U.S. Supreme Court Reports, up to and including the 102 Volume (U.S.S.C. Rep. XII Otto).

I do not know if there be any way provided by Law for the completion of the set; but beg to say that they are much needed.

I take the liberty, assuming that there is some means

within

within Your convenient-Command
to supply the omission, to request
that the remaining volumes, from
and including the 103 volume,
be supplied to this Legation.

I have the honor to be
Sir,
Your obedient-servant,
John F. Swift

Mr. Hicks for

DIPLOMATIC BUREAU

DEC 23 1889

DEPARTMENT OF STATE
DEC 23 1889
RECEIVED.

Legation of the United States.
Tokio, Japan, Nov. 27th, 1889.

Mr. Gardiner
To the Secretary of State.

Subject:
Transit Salary Account.

Legation of the United States,
Tokio, Japan, Nov 27, 1869.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

I have the honor to enclose herewith my account for salary while in transit from Washington to my post of duty at Tokio, Japan.

I have the honor to be
Sir
Your obedient servant,
W. R. Gardiner Jr.
Second Secretary of Legation.

Dft From U.S. Legation 714 N. Howard St. to Japan

Grant extension as asked. Inform Legation at Tokyo. asa Nov. 30.

Baltimore Md.

Nov. 30. 1889

Hon. Jas. G. Blaine

Secretary of State

Washington

Sir confirm by telegraph to Mr. W. Dft

Nov 30 1889

To Jordan 2 Dec

DIPLOMATIC BUREAU.

NOV 30 1889

DEPARTMENT OF STATE NOV 30 1889 RECEIVED

I beg to say that my extended leave of absence will soon expire it has been my intention to set out for Japan on the 6th of December, but owing to the death of one of our twin sons on the 26th inst. from Whooping Cough Complicated with bronchitis and pneumonia and the illness

of my two remaining Children
aged 8 months and 20 months
with whooping Cough and bron-
-Chitis I fear that it will not
be possible, without almost
unwarrantable risk, to start at
the time above mentioned, nor during
the period of danger, which may
extend to eight or ten weeks thereafter.
I therefore venture to ask if, in such
a probable event, it will be your
pleasure to further extend my leave
and to authorize the U. S. Minister,
if agreeable to him and consistent
with the satisfactory performance
of the duties of interpreter in the

Legation at Tokyo to continue the present arrangement with Dr. Thompson and the Japanese assistant for a period of sixty days from the first of January, when my present leave expires and also authorize the Minister to draw the salary of the Interpreter and pay the same to my substitute during the period of my extended absence.

I have the honor to be

Sir,

Your obedient servant

Willis Norland Whitney

P.S. I shall be greatly obliged if the substance of your reply can be telegraphed me.

Baltimore
Nov. 18th 1889.

I have been in attendance upon the children of Dr. Willis Norton Whitney, during their stay in Baltimore. The infant who was first attacked with whooping cough has died from the complication of bronchitis and catarrhal pneumonia. The other two have whooping cough, and both show signs of bronchitis to an extent that renders travelling dangerous for them at their age. and at this season of the year. I have, therefore, in conjunction with the other physician, Dr. J. Carey Thomas, who has been, and is in attendance upon them with me, given their parents our decided advice to delay

returning to Japan till they have recovered from the present attack, which, as it is now in its earlier stages, may last a considerable length of time.

Rich^{d} Henry Thomas M.D.
"
Prof. Diseases of Throat & Chest in the Woman's Medical College of Balt.

BUREAU OF ACCOUNTS
DIPLOMATIC BUREAU

DEPARTMENT OF STATE
DEC 23 1889
RECEIVED.

2d ASSISTANT SECRETARY.
Note date of arrival.
Ack by no. & file.
DEC 24 1889

Legation of the United States.
Tokio, Japan, Nov. 29th, 1889.

Mr. Gardiner
To the Secretary of State.

Subject:
Arrival at post of duty.

Legation of the United States.
Tokio, Japan, Nov. 29, 1889.

Hon. James G. Blaine,
Secretary of State.
Washington, D.C.

Sir:

I have the honor to inform you that I arrived in Yokohama on the 27th. instant and on the following day (the 28th.) reported to the United States Minister at this Legation, and entered on duty in the capacity of Second Secretary of Legation.

I have the honor to be
Sir
Your obedient servant
W. R. Gardiner Jr.
Second Secretary of Legation

Received by Dutcher
Dec 26, 1889

DIPLOMATIC BUREAU.
DEC 23 1889

DEPARTMENT OF STATE
DEC 23 1889
RECEIVED.

No. 69.

Legation of the United States.
Tokio, Japan, Dec. 2, 1889.

Mr. Swift
To the Secretary of State.

Subject:
Mr. Gardiner's Arrival in Japan.

No. 69. Legation of the United States,
Tokio, Japan, Dec. 2, 1879.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to inform you that Mr. William R. Gardiner Jr. arrived in Japan from the United States on the 29th ultimo and reported at this Legation and entered on duty in the capacity of Record Secretary of Legation on the same day.

I have the honor to be
Sir
Your obedient servant
John F. Swift

DEPARTMENT OF STATE
JAN 16 1890
RECEIVED.

No. 70. Legation of the United States.
Tokio Japan, Dec 10. 1889.

Mr Swift-
To the Secretary of State.

Subject:
The political situation in Japan

No. 70. Legation of the United States.

Tokio Japan, Dec 10. 1889.

Hon. James G. Blaine.

Secretary of State.

Washington D.C.

Sir:

In the momentary expectation that something of a positive nature would occur affecting political and diplomatic matters pending in Japan and worthy of your attention, I have delayed and finally altogether omitted writing you for a period which turns out to have embraced the sailing of two mail steamers. The recovery of Count Okuma from his injuries of the 18th of October has not proved as rapid as

was

was at first hoped for. He is now, however convalescing satisfactorily and will, it is understood, be well enough in a few days to meet and confer with his colleagues.

As soon as this takes place, which however may be as late as the close of the year, the changes involved in the Cabinet reorganization will be made and we shall learn the full force and effect of what has occurred.

I have been assiduous in my attention to the distinguished gentleman, taking care, during the first fortnight of his illness to personally call at his house and enquire as to his condition each day and since that time on frequent and suitable occasions

occasions, I have either called or sent the Secretary of Legation, Mr. Dun, to make similar inquiries. All the members of this Legation have been equally punctual in performing this duty.

No communication has been made to me officially or otherwise which would tend to throw any light upon what is in contemplation by the Government of H. I. J. M., either as to its own reorganization or as to its intentions concerning the great central and controlling question in the politics of the country, Treaty Revision. I can only, therefore, give you such conclusions as I am able to arrive at by reading the local journals and gathering the consensus of opinion amongst the men with whom

whom I am thrown in contact from day to day.

It has turned out as might have been foreseen, that the attempt upon Count Okuma's life taken along with his injuries and suffering, has gone far to temper and tone down the hostility of his political opponents and indeed to create sympathy for him in every quarter. There is no longer any reason to doubt that an actual Cabinet-Crisis resulting from the opposition to the treaty revision policy of the Kuroda Government was pending on the 18th of October when Count Okuma was stricken down and that but for his physical injuries his resignation would at that-

time

time have been forced and the negotiations abruptly brought to a termination. I may now mention that the attack upon Count Okuma had a most striking effect upon the state of affairs existing at the time it occurred. It seemed to clear the political atmosphere and to ease up the situation. The tension had become very great. A state of general uneasiness pervaded the foreign community and, to the best of my belief, the native as well. We did not know what might or might not occur at any moment. To show the extent of my own anxiety at that time, I will mention that I wrote privately an unofficial note to Rear Admiral Belknap, Commander

Commander-in Chief of our squadron on this station, then on board his flag ship the "Omaha" at Chemulpo, three days which was intended to influence, without directly asking him to keep within reach of Japan for the time being, I simply detailed the facts showing the situation as it was, which I have reason to think produced the desired effect for the Admiral, even after returned to Nagasaki with the ship. It seems that in the letter which was personal and autographic, I mentioned to him fears that I had for some weeks entertained that Count Okuma might be attacked and probably killed. By a remarkable coincidence the news of the attempted assassination

reached

reached the Admiral by telegraph at Chemulpo only a few hours after the reception of my letter. I am glad to be able to inform you that during the seven weeks which have elapsed since that incident, the excitement has cooled down and things at least on the surface have resumed their ordinary condition.

As I mentioned above, it is understood a reorganization of the Cabinet will within a short time, probably before the end of the year, be announced.

The personnel still remains a subject of conjecture. The unusual delay in announcing the names of the members of the new Government is said to arise from the difficulty of distributing the places satisfactorily between

between the leaders of the two great Clans of Choshiu and Satsuma, who seem to have joint control of political affairs in Japan. If Lt. Count Yamagata, at present Minister for Home Affairs, will be Prime Minister in place of Prince Ito, now temporarily acting, appears to be more generally conceded than any other event predicted in that connection. But whether he accepts an office in the new Cabinet or not, I am led to believe that the dominant influence in the Government will be Count Inouye who now comes to the front along with Count Ito as the controlling factors in Japanese politics.

I intimated to you in a recent dispatch that I rather looked for

Count

Count Sannge to take the portfolio of Foreign Affairs. This does not, at present seem probable. But if he does not take the post it will fall to some one of his friends and supporters, most likely Vicount Aoki. I also mentioned to you in a former despatch, the strong German as well as anti-American bias this gentleman is generally credited with possessing. Further enquiries I regret to say only tend to confirm me in the fear that this popular opinion is correct. Otherwise he is unobjectionable to our countrymen, being a statesman of education and talents of the first order. His character is without stain so far as I can hear. This same is true of his powerful

powerful friend Count Inouye. He is strongly inclined towards Germany and dislikes Americans and their institutions.

I give for what they are worth the following public rumors as to the probable membership in the organization of the Government, all of which may be confirmed or negatived before the mail goes out with this despatch. It is said that Mr. Iwamura, Vice Minister for Agriculture and Commerce, will be made Minister for Home Affairs in the place of Count Yamagata, promoted to the Premiership. That Mayeda, Director of the Agricultural Bureau will succeed the former and that Mr. Muteu, Minister at Washington will

succeed

succeed Viscount Aoki as Vice Minister for Foreign Affairs. But let the Cabinet be organized as it may, it is quite manifest that the new administration will very soon press for a revision of the treaties with renewed vigor and upon more advanced lines as to the claims of Japan. But notwithstanding the fact that they come into power over the prostrate form of the maimed gentleman, who as Minister for Foreign Affairs had obtained from several Countries, voluntarily our own in the pending treaty of February 20th 1889, important concessions, for the alleged insufficiency of which, however, they have defeated and driven him from office, yet I have reasons for thinking that the

new

new Government will make an effort, either openly or covertly, to hold fast to and utilize the work so successfully accomplished by their defeated opponent and render it in fact, as their own, as far as it will go.

There is no doubt that the Government, now being driven out of office, has been compelled to yield to an opposition making its central point of attack the treaties of which our own is the prototype. The logic of this would be the prompt withdrawal of the treaties absolutely and finally and the renewal of negotiations upon other lines, presumably, satisfactory to Japan. The treaty of February 20, 1869, if confirmed by the Senate would not be ratified by His Imperial

Japanese

Japanese Majesty as affairs
now stand.

Such being the state of the case
I have been expecting daily to
be informed either from the Foreign
Office or from Washington that notice
of the change of policy had been given
in due form to the United States
Government. But notwithstanding the
fact that almost two months have elapsed
since the Cabinet crisis occurred
resulting in the triumph and accession
to office of the party believed to be
opposed to our treaty, and through it
must have been known to the Government
of which Prince Sanjo is the head
that the President of the United States
was then actually engaged in preparing
for the annual meeting of Congress

and

and that the Department of State must be busily at work examining this along with other pending treaties preparatory to sending it to the Senate, yet no hint, so far as I can learn, has been given to the effect that the Japanese Government was itself no longer favorable to this measure which they must know is liable in a few days to be acted upon by the Department of State and the Senate at Washington.

While I am by no means of that opinion yet it would not be strange if this long continued omission to give any Government that frank outspoken announcement of what has actually occurred here, which is due from Japan to so friendly a state as ours, should lead others less

trustful

trustful than myself to suspect the new Government of H. I. J. M. of being not unwilling to keep the treaty of February 20. 1889. hanging indefinitely as a seemingly concluded result in order to profit by its effect upon other Powers in the management of other negotiations. That this treaty has been from the beginning by far the most important factor in the negotiations which progressed with such startling rapidity during the first half of the present year, I have had the honor to inform you in more than one despatch.

The impression that ours was a concluded treaty, or so in substance, having received the approval of the present Administration and was certain

of conformation by the Senate, has continued to exist- in spite of anything I have been able to say to the contrary, especially considering that I had no authority to either admit- or deny the assertion when made. It still unquestionably prevails in diplomatic and other circles in Japan to a greater or less extent: And even should the new Government of H.I.J.M. be willing to gain as their predecessors did, whatever advantage might accrue to them in diplomatic negotiations, from this current opinion, which, whether true or false, so far as I know they are quite innocent- of setting in motion, there can be no wrong in- so long as the

Department-

Department of State at Washington is satisfied to permit them so to do.

But I shall be surprised I confess if information of this unquestioned change of policy which has taken place in the Japanese Government is not very soon officially and formally conveyed to you, in order that you may take such action as the case seems in your judgement to require. But whether this is done or not in no case will I venture to draw any conclusions from a failure to do so. That I shall certainly leave to you as the head of the Department and proper authority.

I have the honor to be

Sir

Your obedient servant;

John F. Swift

DEPARTMENT OF STATE
JAN 16 1890
RECEIVED.

No. 71.

Legation of the United States
Tokio Japan, Dec. 16. 1889.

Mr. Swift-

To the Secretary of State.

Subject-

The Resignation of Count Okuma as Minister for Foreign Affairs

No. 71. Legation of the United States.
Tokio Japan. Dec, 16, 1889.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

It is publicly known, though I have had no official notice of the fact, that Count Okuma, H. I. J. M's. Minister for Foreign Affairs resigned his office on Saturday the 14th instant. The resignation has not yet been accepted by the Emperor though there seems to be no doubt that he will do so. The Count removed from the official residence at the Foreign Office on the following (Sunday) morning.

Although

Although the verbal communication made to me in the forenoon of the same day by Prince Saionji, along with the telegraphic instructions to Mr Hunter, the details of which I shall give you in a separate despatch by this same mail, would seem to indicate that no change of policy with respect to pending treaties is intended by the new Government: Nevertheless I have very good reason for thinking that Count Okuma has resigned solely and for no other reason than because he believes there is to be a change and that his treaties are not satisfactory. I have information, which I believe to be reliable, to the effect that Mr Hatoyama, Director of the

the Law Bureau of the Foreign Office and Mr Kato, Confidential Secretary and Interpreter to Count Okuma, who sent in their resignations immediately after that of their Chief, a sacrifice not expected nor usual in the service, and in each case a serious loss to it; I have done so on the ground that there is to be a change of policy and that the treaties as far as made are to be repudiated.

I have the same reason to believe that Count Okuma in his resignation addressed to the Emperor, in distinct terms places his voluntary withdrawal from Office on the ground that his treaties ~~—~~ not giving satisfaction,

his

his personal dignity and self respect invariably moved him to retire.

I venture in this connection to express my sincere regret on the retirement from the Foreign Office of this accomplished gentleman. Of his high character and eminent qualifications I gave you an account in my despatch No 56 along with the particulars of the lamentable occurrence of the 18th of October which came so near terminating his life and which did leave him so sadly injured and maimed.

While I have learned to hold all of the officials of this country in the highest esteem, it will be

be no disparagement to any of them to say that I have been from the first especially impressed and delighted with the easy and at the same time dignified manner along with the charming politeness and urbanity of Count O'Kama. The causes which have led up to his extrusion from office at this most critical juncture in the affairs of his Country, I have endeavored, to the best of my ability to give you from time to time. How much I have told you for truth which is accurate and how much more of truth remains to complete the history there no doubt exists, that I have wholly left untold I

Can

can only conjecture, I wish to place myself on record now as confessing that I do not understand Japanese politics. I am told by many old residents of intelligence that Count Okuma has been forced to succumb by the intrigues of rival politicians jealous of the success he seemed about to achieve in the long desired treaty revision. I am given to understand that Count Okumas friends contend that the supposed popular indignation was worked up by these rival politicians and that it was largely simulated and artificial. As to the truth or falsity of these charges I have no means of judging.

But

But from my observation of political methods in other countries, I can hardly say that the explanation is without a certain air of plausibility, and that if it is true it is "bien trouvato".

Again there is another circumstance worthy of consideration. Count Okuma as I mentioned to you in a former despatch does not belong to either of the great Clans of Satsuma or Choshiu, the so called "Sat-Cho" combination who joining together in 1868, overthrew the "Shogunate" and restored the Emperor to the real sovereignty, since which they have maintained their supremacy in the State without a single breach of continuity.

He

to his fine Higen. For one not of the great clans to hold high office in Japan is exceptional. The fact that Count Okuma has accomplished so much in the face of all these disabilities, is alone enough to demonstrate his extraordinary talents and merits as a Statesman.

In conclusion I repeat my regret at his withdrawal from a place he was so well fitted to adorn.

I have the honor to be

Sir

Your obedient servant,

John F. Swift

DEPARTMENT OF STATE
JAN 16 1890
RECEIVED.

No. 72.

Legation of the United States,
Tokio, Japan, December 18, 1889.

Mr. Swift
To the Secretary of State.

Subject:
Re Telegraphic Instructions of December 13th., 1889, to Mr. Mutsu.

No. 72. Legation of the United States.
Tokio, Japan, December 18, 1889.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

I have the honor to inform you that in compliance with a semi-official note received on Friday evening last from — Viscount Aoki, acting Minister of Foreign Affairs, notifying me that His Excellency Prince Sanjo, H. I. J. M's Prime — Minister, would call upon me the following morning for the purpose of conversing upon official matters, I remained

at

at home during the forenoon of Saturday, the 14th. instant, expecting his visit. His Excellency called at the appointed hour accompanied by Mr. Arabane, one of the under secretaries of the Foreign — Office.

Before stating the purpose of his call, the Prince handed me a paper which he asked me to read, at the same time — informing me that it was a copy of an official communication that had been transmitted by telegraph the day before — (viz., December 13th.) by H. I. J. M's Government to Mr. — Mutsu, Minister at Washington.

Prince

Prince Tanjo left the paper with me and I have enclosed herewith a copy of it for your use to which I have the — honor to respectfully call your attention. I will mention here in parenthesis that though Prince Tanjo did not deem it necessary to inform me of the fact, yet it is true that — ~~similar~~ notes were at the same time forwarded to the German and Russian Governments.

When I had read the — contents of the paper His — Excellency proceeded to say that it would be taken by H. J. M's Government as an act of kindness if I would use my

my influence with my —
Government to obtain its —
consent to the propositions to
be submitted by Mr. Mateu, —
namely, that the treaty of —
February 20th., 1889, be held in
abeyance as to the time of its
taking effect, &c., &c. He also
asked me if in my opinion there
was likely to be any difficulty
on the part of my Government
in conceding this favor. I —
answered that as to the attitude of
my Government towards the treaty
itself, I had no knowledge —
whatever. I reminded him
that the treaty was no longer —
properly in this Legation, that
it had been negotiated, signed
and

and transmitted to the State Department before I entered upon the duties of this post and that its consideration was not within my official functions; that I had received no instructions with respect to it. But I proceeded to assure him that while in fact a new administration had come into power since the treaty was signed, which new ——— administration must, under our system, approve of the measure before it could take any —— additional step in its progress towards conclusion, yet the same feeling of kindness and good will towards Japan —— pervaded the present which had

had so strongly characterized every American Government since the two countries had been in alliance; that I had no means of knowing and did not know whether my Government approved of the treaty of February 20th., 1889 or not. But, I said, no matter how much they approve of it, there will be no disposition to insist upon its taking effect a moment in advance of the time H. I. J. M. Government may deem consistent with the welfare of Japan. As to the request that it be held in abeyance while negotiations are being conducted

conducted with other powers that would seem to depend to some extent upon whether the treaty as it stands, independent of the period at which it is to go into operation is acceptable to my Government. That I could hardly think they would consent to this course unless the treaty in other respects is satisfactory. But that, as I was in complete ignorance of their views, I was wholly — unable to enlighten His Excellency upon that point. But I said finally that I was quite sure he need have no fears that my Government would insist upon the treaty going into operation at any time against the wishes

of

of N. Y. J. M's Government.

I also promised to inform Mr. Blaine in a dispatch as promptly as possible of what I had promised on that point and that if he should disapprove I would communicate his views immediately upon receiving them.

I have been for several weeks past momentarily expecting to receive a communication in some form, indicating the changed — attitude which I have understood had been assumed by N. Y. J. M's Government towards the new — treaties. But, notwithstanding this circumstance, I was somewhat surprised upon reading the instructions telegraphed to

Mr.

Mr. Mateu. The statements of fact in the telegram do not at all accord with my understanding of the existing situation, as you will doubtless have observed from reading my former dispatches and especially the last, my No. 70, of date the 10th. instant. I need hardly say, however, that I do not for a moment venture to dispute the exactness of the statement made by H. J. M's Government as to the causes that led it to ask for a postponement of the time the treaty is to go into force, or to accuse it even by implication of disingenuousness in giving the idea which the paper certainly does, that the treaty is satisfactory

satisfactory in all respects save as to the matter of time when it shall come into force. I only suggest that if it is as full, frank and exact as no friendly a state as ours has a right to — expect of Japan, then I have been greatly misled in my observations of the drift of things during the last seven months I have been near their Government and that I am somewhat surprised to be thus officially and authoritatively informed of my error.

I will briefly summarize the statements and inferences, express and implied, contained in the instructions to Mr. Mutsu that are so unlike the actual

situation

situation of affairs as I had come to look upon them after gathering, to the best of my ability, all the knowledge seemingly within my reach.

If Mr. Mutsu follows his instructions, which of course he will do, long before this dispatch can reach Washington you will have officially received from the new Government of H. I. J. M. an assurance (by fair inference) that the treaty signed February 20th, 1889, is as satisfactory to it as it was to the Government of Count Kuroda, under which it was negotiated and signed. That this is equally true of the treaties upon the same lines,

subsequently

subsequently negotiated and signed, with Russia and Germany. That the negotiations being conducted between Count Okuma and the plenipotentiaries of other powers at the time he was injured, having for their purpose the securing from them similar treaties, will be continued by Count Okuma's successor at the Foreign Office and pushed forward to a consummation, if possible and of course without material variance from those already negotiated and signed. That all that is wanting to make the treaty with the United States, signed February 20th., 1889, entirely acceptable is sufficient time

time before its taking effect to enable the new Government to complete "certain subsidiary arrangements," whatever that may mean. That the sole reason the time to make these subsidiary arrangements happens to be too great is owing to the serious interruption occasioned by the illness of Count Okuma; and, finally, you will have been asked to allow this otherwise unexceptionable treaty to remain in abeyance till such "subsidiary arrangements" are made, which you are assured will be "no long time" and that the delay will not by any means interrupt the negotiations with the other powers.

powers.

All of the foregoing ~~is a~~ summary of the paper, if not stated in direct terms, is fairly to be inferred from what is stated.

While I may not be allowed to question the exactness of these statements, it certainly cannot be out of place to point to the manifest breach of logic in forcing out of office, as has been done, Count Okuma just as he had reached what seems by implication to be conceded as a successful result in negotiating a revision of the treaties on lines thus conferred as satisfactory to those

those who have superceded him.

If Count Okuma's treaties are satisfactory why is he compelled to resign? Does it not look as if the fault in the treaty is not wholly confined to the limited period allowed for making the necessary "subsidiary — arrangements"? But in any case it seems to me not improper for me to suggest that if by any chance the treaty of — February 20th., 1889, should after all prove, later on, not to have been entirely satisfactory to H. I. J. M's Government, and in the mean time, while it is held in abeyance, to allow for these necessary "subsidiary arrangements"

arrangements, negotiations should be carried on with other powers resulting in treaties more to the mind of H. I. M. Majesty and naturally different and perhaps operating to the disadvantage of American interests and, in the end, we should have the treaty of February 20th, 1889, rejected and tossed back to us, we might be obliged to — resume negotiations to be let into the new concessions under serious disadvantages.

Trusting these suggestions, which I confess are officious as the treaty is not in my hands, will not be taken to exceed the bounds of due propriety

propriety,

I have the honor to be

Sir

Your obedient servant

John F. Swift

Enclosure:

Copy of telegram from Japanese Government to Mr. Mutsu.

Copy. Enclosure with Mr. Swift's No. 72.

Foreign Office Tokio,

December 13th, 1889.

Telegram.

The illness of Count Okuma, the Imperial Minister for Foreign Affairs, resulting from the wounds received by him on the 18th, October last, has unfortunately occasioned a serious interuption in the work of Treaty Revision.

Consequently not only have the negotiations with Great Britain, France and other Powers remained un-finished but the origional intention of putting the Treaties already concluded with the United States, Germany and Russia into force on the 11th, ~~of~~ February next will have to be abandoned owing to the impossibility of completing the necessary subsidiary arrangements prior to that date.

Under these circumstances the Imperial Government have decided to address through you the request to the United States Government that the Treaty signed on the 20th, ~~of~~ February 1889, be allowed to remain for the time being in abeyance.

As to the time when it is desired to put the Treaty into operation the Imperial Government will, at no remote future date, again approach the United States Government.

You are also instructed to assure the United States Government that the contemplated postponement will not by any means interupt the pending negotiations with other Powers.

Confidential.

No. 73.

Legation of the United States,
Tokio, Japan, December 30th., 1889..

Mr. Swift

To the Secretary of State.

Subject:
Position of the United States with reference to new treaty negotiations.

Confidential.

No. 73. Legation of the United States.
Tokio, Japan, December 30th, 1879.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

In an open dispatch which I have the honor to send you by this mail which takes this, I give you the particulars of an interview with Prince Sanjo touching the declared intentions and wishes of H. I. J. M's —— Government with respect to the pending treaties.

There are one or two matters of a confidential nature which may or may not be of value to you

you in determining your action which I now transmit privately.

With respect to the treaty signed at Berlin on the 11th. of June, between Germany and Japan and which, at the time, was announced as concluded and ready to go into effect, I have good reason for thinking that at about the time of the exchange of signatures notes were passed, either directly or indirectly, between Prince Bismarck and Lord ~~—~~ Salisbury engaging on the part of Germany to withold final confirmation till Great Britain should conclude a treaty to her satisfaction, and that this

was

was done without the knowledge of the Japanese Plenipotentiary or Government; that Count Okuma subsequently came to know what had taken place and thought and privately declared it to be an act of bad faith. With that of course we have nothing to do, but I deem it my duty to inform you of the fact for what it may be worth.

I may also mention to you in the same confidential way that on Tuesday last I met, in the drawing-room of the British Legation, Mr. Schevitch, the Russian Minister, who, in a casual conversation, assured

assured me that, in his opinion, the treaties heretofore signed would have to be materially changed.

He has represented his Government at this capital several years past and negotiated and signed the treaty recently made between Japan and Russia, of which I wrote you in my dispatch No. 86, dated August 10th, 1889. He probably understands the actual situation here as well as any member of the Diplomatic Corps and his opinion is of corresponding value.

I will avail myself of this confidential paper to add for your information that, so far as I can judge, the general opinion

opinion of foreigners in Japan, diplomatists, merchants, missionaries, and indeed of all classes, has come around to the position that this country has not yet reached such a state that the extra-territorial privileges of Europeans and Americans can, with safety to them, be abolished. When I first arrived at this capital in May this was hardly the case, though many, even at that time, looked with only half concealed alarm upon the treaties being rushed through with something like railroad speed under the tremendous impetus given them by my talented and dashing predecessor, Mr. Hubbard. The fact is foreigners

foreigners resident were taken by surprise. But they have now had eight or ten months to think over the situation, during which some rather stormy incidents have happened while much more has been threatened, resulting, to the best of my belief, in the opinion I have above suggested.

As for myself, I can hardly say that I have an opinion to express to you, even in this confidential way, were I asked to give one. My newness to these scenes, together with the important part I may possibly have to take with respect to it, should negotiations be resumed on different lines, as certainly

certainly the Diplomatic body here think will happen. I feel that I should, as far as possible, avoid coming to any positive opinion upon the matter. I shall endeavor to keep my mind as far as possible from hasty predilections in order that I may join in carrying out whatever policy you may finally resolve upon.

But the facts are manifest to me, first, that the Japanese Government will, at no distant time, attempt to renew negotiations upon the proposition of practically abolishing extra-territoriality, while the other powers, excepting possibly

Germany and not referring at all to the United States, will be disposed to recede from rather than advance beyond concessions already partially agreed upon.

The general impression here, not limited to Diplomatic circles, is that Germany, for reasons I will not now go into, is more likely to agree with Japan than any ~~other~~ of the five leading powers. The leading powers in Japan are Great Britain, the United States, Germany, Russia and France, with relative influences in the order named above. I have been, until within the last few days, participating in

in the opinion general here, that Germany, in her anxiety to obtain trading advantages and a satisfactory tariff, was almost certain to break away from the other powers, as the United States did in the early part of the year, and conclude for herself, alone, a treaty surrendering — absolutely the extraterritorialities.

But the information of the secret notes between the two Governments at London and Berlin referred to at the beginning of this dispatch places the matter in a new light and I no longer think so, though I am alone in that opinion at this time of those I have

conversed

conversed with about it.

The sober reflection and thought that within the last few months have been given the matter by the foreigners resident in Japan will in my opinion render a repetition of the general stampede of powers produced by the unexpected action of the United States in rushing through a treaty between the November election of 1888 and the Presidential inauguration of 1889, if not an impossibility is certainly very unlikely to occur. The United States could not, if she tried, do it over again, and it is doubtful if Germany could.

J

I regret to be obliged to take notice of what seems to me to be a present appreciable loss of influence for our Government. I do not believe that our making a treaty today with Japan would force the hands of the other powers, as it did in the early part of the present year, and compel them to follow our lead.

If a winning has been made it is by Great Britain, which power was content to "make haste slowly"; and, if it be true, as I have no doubt it is, that she has Bismarck's promise to await her action, then she, and not the United

States

States, holds the key to the situation.

I have the honor to be
Sir
your obedient servant
John F. Swift

DEPARTMENT OF STATE
JAN 16 1890
RECEIVED.

DIPLOMATIC BUR
JAN 17 1890

2D ASSISTANT SECRETARY.
Ack by subject & file.
JAN 15 1890

No. 74.

Legation of the United States.
Tokio Japan, Dec 20. 1889.

Mr. Swift:
To the Secretary of State.

Subject:
Latest rumors relative to the changes in the Cabinet.

No. 74. Legation of the United States.
Tokio Japan. Dec. 20, 1889.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

I avail myself of the last moment before the closing of the mail to say that if current rumor is to be relied upon, the new Cabinet which two days ago was substantially agreed upon is once more unsettled and the Ministerial dead lock seems as great as ever.

It looks as if the opposition to Viscount Aoki's promotion to the head-ship of the Foreign Office, which four days ago was almost officially announced

announced, may have been a disturbing element. At any rate there was early in the week a rumor that the Emperor, when he received the nomination had hesitated and required explanations. Since the hesitation of the Emperor was noted there came a second and even more serious statement to the effect that the Privy Council had objected to the Viscounts appointment, which objection practically amounts to a veto.

With that important place set again adrift, of Course, the Cabinet had to be made over again. As to how it will be done there are various rumors. One of the most probable is that

Viscount

Viscount Enomoto will take the Foreign Portfolio in conjunction with his present Department of Education.

The chances that Mr Mutsu will be recalled from Washington to take Viscount Aoki's place of Vice-Minister for Foreign Affairs seem to increase in probability, for if the the present Vice-Minister and Acting Minister, should not be promoted to the higher place he, so it is understood, will retire indefinitely from the Foreign Office, and be made a Privy Councilor.

One of the serious drawbacks to the usefulness of those Japanese statesmen who have been educated abroad, consists in the bias they

are apt to take on in favor of the country where they happen to have received their education. I have mentioned to you in former despatches how both Aoki and Iwasaki, who were educated in Germany fall under German influence, which of itself would not be of importance were it not accompanied by a strong dislike of Republican institutions generally and the United States especially as the typical Republic.

To my mind the supreme fitness which I think Count Okuma possessed for the position he has so recently given up arose from the circumstance that he has never been out of Japan. He had so

for

far as I can learn upon careful enquiry, no predilection for or against any nation or people over another, but treated all alike.

I have the honor to be

Sir,

Your obedient-Servant,

John T. Swift

DEPARTMENT OF STATE
JAN 20 1890
RECEIVED.

DIPLOMATIC BUREAU
JAN 21 1890

No. 75.

Ans'd 22 Jan

2d ASSISTANT SECRETARY.
Ack by subject & file
JAN 21 1890

Legation of the United States.

Tokio Japan, Dec. 26. 1889.

Mr. Swift:

To the Secretary of State.

Subject:

Re-organization of the Japanese Cabinet- completed, names of its members.

No. 78.

Legation of the United States.
Tokio Japan, Dec 26. 1889.

Hon. James G. Blaine.
Secretary of State
Washington, D.C.

Sir:

I have the honor to inform you that the Cabinet crisis which is understood to have existed in the Government of H. I. J. M. since the resignation of Count Itō on the 11th of October last, has at length passed over and the appointment of a new administration has been announced.

My first information of what had occurred came during the forenoon of Christmas day in the shape of a communication from Viscount

Aoki

Aoki, for some time past, Acting-Minister of State for Foreign Affairs, announcing that the Emperor had accepted the resignation of Count Okuma, and had appointed the Viscount himself permanently to the place he has been filling ad-interim.

The note contained the usual assurances of kind feeling towards myself personally along with a promise to endeavour to strengthen the existing friendly relations between the two countries, to which courteous official paper I promptly replied in fitting terms.

The changes in the Cabinet are as follows: Prince Saijo steps aside from the Premier-ship to make room for Count Yamagata heretofore

heretofore Minister for Home
Affairs. who, however, will still
retain that Portfolio and discharge
the double functions. Count-
Inouye, the acceptance of whose
resignation of the Portfolio of
Agriculture and Commerce —
appeared in the Official Gazette
on the 24th instant; retires from
that post and is appointed
Ja-ko-no-Ma. Yiko, a position
of honor near the Emperor's person
but with insignificant or uncertain
duties, equivalent, probably, to a
Lord-in-waiting at European Courts.

As in the case of the Foreign —
department the outgoing Minister
for Agriculture and Commerce
is succeeded by the Vice-Minister

Mr.

Mr. Iwamura. This gentleman is, no doubt, well fitted for the place to which he has been promoted as he has held the minor position with credit continuously since 1887.

The successor to Count Itō, as President of the Privy Council with a seat in the Cabinet, is Count Oki, hitherto President of the Senate. This completes the Cabinet changes. The new President of the Senate is Count Yamagiwara, a Court Noble, hitherto Vice-President of that body.

Contrary to what has been reported as the intention of Count Okuma to retire absolutely to private life, that gentleman has accepted a seat in the Privy Council.

H.

It is understood that the new Cabinet has, after some difficulty, been brought to provide a distribution of places between the great ruling clans, if not satisfactory, at least endurable for the present. Of the eight regular members, three are Choshiu men, namely, Count Yamagata, Count Yamada and Viscount Aoki, while Count Saigo and Count Oyama represent Satsuma. Two, namely, Count Goto and Mr Iwamura are from Tosa, while Viscount Enomoto stands alone as the sole representative of the defunct Bakufu or Shogun family. Count Oki is from Hizen. The Minister of the Imperial Household, though not in the Cabinet, Viscount Hijikata,

is of Iwo a extraction.

So it will be seen that Chosin has a majority of one over Satsuma while Higen and Iwo are held in balance; showing evidently that an effort has been made to distribute the official power and prizes as nearly Equal between the great ruling if not rival Clans as possible.

I have the honor to be

Sir.

Your obedient servant,

John F. Lloyd

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED.

No. 76.

Legation of the United States.
Tokio Japan. Dec, 28, 1889.

Mr Swift:
To the Secretary of State.

Subject:
Interview with Vis count Aoki, H.I.J.
M's. Minister for Foreign Affairs, in
regard to modifications in pending
treaties desired by Japan.

No. 76. Legation of the United States.

Tokio Japan, Dec. 28, 1889.

Hon. James G. Blaine,

Secretary of State,

Washington D.C.

Sir:

I have the honor to inform you that during a call which I received this afternoon from H.E. Viscount Aoki, H. I. J. M's. Minister for Foreign Affairs, a conversation took place bearing upon the pending treaty of February 20, 1889, to the following effect:

The Viscount informed me that he had obtained, through Mr Mutsu at Washington, the consent of my Government to a postponement of the time at which the treaty is to take effect and that he

he had already commenced, or was about to commence, negotiations with the Ministers of other Powers here at Tokio, for the revision of existing treaties. That at some future period, which he thought would be very soon, he would approach me upon the same subject.

I at once asked him if the treaty negotiations with other Powers would be conducted upon the same lines with our own, already signed. He said no, they would not, but that certain changes and modifications would be demanded. I then inquired if Mr Mutsu, in asking for the postponement of time had informed Mr. Blaine of the intention to negotiate with other Powers upon a different basis and ultimately to demand

From

from the United States, changes in the treaty of February 20, 1889, other than that of the time of its taking effect. He answered no! that Mr. Mutsu had not been authorized so to do, but, he continued, without passing, it was imperatively necessary to obtain promptly the postponement; which was the reason for his not giving this information. In answer to this I remarked that I was morally certain in my own mind that a full and fair statement to Mr. Blaine of this important circumstance would not, in the least, have endangered the result H. I. J. M's. Government sought to obtain, through Mr Mutsu, a postponement. On the contrary, I said, if my Government approves

5th

of the treaty it is solely because of its
desire to gratify the Government of
H. I. J. M., and not, in any case,
because of any advantages it expects
to obtain for the United States except
indirectly through benefiting Japan
and aiding in her progress, therefore,
in such case, I continued, it would
naturally willingly consent that His
Imperial Majesty should decide when
the treaty must take Effect. If on
the other hand it should turn out that
the present Government of the United
States which, I reminded H. E., came
into power since the treaty of February
20, 1889 was signed, does not approve
of the instrument in its present form
then, of course, it will not consent that
it shall go into effect at the time named

nor

nor at any time till modified and made satisfactory, and, therefore, I went on to say to H.E., it seems to me that Mr Blaine ought to have been informed by Mr. Hunter, on making the request, precisely what was to follow. But without appearing to notice this point and as if to flank it H.E. interjected as follows: "but "I have been informed that your "Government will also demand certain "modifications and which will be in "the nature of what we shall want "and if you are empowered to negotiate "on those points, I shall be most happy "to talk with you at once." I answered that if he had been so informed by any one having the right to speak with authority,

he

he was in possession of information that had not before reached me. That I had had no notification from my Government of any objection to the treaty, and was not able to say whether it approved or disapproved of it; but that if he would tell me what his own points of modification were, that I would communicate them to my Government and that if its objections were of the same nature as those of Japan as he had intimated them to be, without doubt the matter could easily be arranged to the satisfaction of both. To this H.E. replied that he was unable at present to state the nature of the changes and modifications his Government intended to demand in

in the treaties now signed or in negotiation; but that Mr Mutsu would be here in January with information concerning the disposition of the Government at Washington with respect to the treaty of February 20, 1889. and that then he would determine upon the changes he would demand.

When he rose to take leave I mentioned to him that I would communicate to you the substance of what had passed at the interview, upon which he expressed his satisfaction.

I have the honor to be

Sir,

Your obedient servant:

James T. Swift

2d ASSISTANT SECRETARY.
Comply- add
JAN 29 1890

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED.

DIPLOMATIC BUREAU
JAN 28 1890

No. 77.

Legation of the United States.
Tokio Japan, Dec. 30, 1889.

Mr. Swift:
To the Secretary of State.

Subject:
Request for "Lawyers U.S. Circuit Court Reports."

Books sent
March 1890.

2D ASSISTANT SECRETARY.

JAN 29 1890

Mr. Bancroft:

How many volumes
and How much?

Mr [illegible]:

Here are Ten vols.

Vols 1 & 5 cost from $10 to $15; the
remainder $6- each

Respy. Bancroft.

No. 77. Legation of the United States.

Tokio Japan. Dec, 30. 1889.

Hon. James G. Blaine.

Secretary of State.

Washington D. C.

Sir.

Although my dispatch No. 68, of date Nov. 12. 1889. asking for certain copies of the U.S. Supreme Court-s Reports, necessary to complete the set now at this Legation, was sent too recently for me to expect an answer, so that I am still in ignorance as to the practice of the Department in such matters and as to whether you have the means to grant such a request, yet I take the liberty of making another similar draft upon your favor, in

behalf

behalf of this Library.

I beg that you will, if proper and convenient, send a complete set of Sawyer's U.S. Circuit Court Reports. As that is the immediate Court of appeal from decisions made by the U.S. Consular Authorities in Japan and China, and as the work is not here, having never been furnished this Legation, I trust the advantage of having a set at hand for consultation, when necessary, will be deemed a sufficient excuse for the application.

I have the honor to be

Sir,

Your obedient servant.

John F. Swift

Requisition
Mr Griffin
Jany 29. 90

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED.

Rec'd Jany 29. 90
Cir 6

DIPLOMATIC BUREAU
JAN 29 1890

No. 78.

2D ASSISTANT SECRETARY.
Comply
JAN 29 1890

Legation of the United States.

Tokio Japan. Jany 3. 1890.

Mr. Swift:

To the Secretary of State.

Subject.

Requisition on the Department for blank record books, for dispatches to "Department of State."

No. 78. Legation of the United States.

Tokio Japan, Jany 3. 1890.

Hon. James G. Blaine,

Secretary of State.

Washington D.C.

Sir:

I have the honor to request that you will cause to be sent to this Legation a blank "Record Book" for despatches to the Department of State.

I have the honor to be

Sir.

Your obedient servant:

John F. Swift

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED

2D ASSISTANT SECRETARY.
Book to Library —
Ack accordingly —
JAN 29 1890

DIPLOMATIC BUREAU
JAN 29 1890

Book received
Jan. 29, 1890
Librarian

No. 79

Jacket
Jany 30 1890

Legation of the United States.

Tokio Japan, Jany 3, 1890.

Mr. Swift:

To the Secretary of State.

Subject:

Copy of Volume II, of "Treaties and Conventions between the Empire of Japan and other Powers.

No. 79. Legation of the United States.

Tokio Japan. Jany 3. 1880.

Hon. James G. Blaine

Secretary of State.

Washington D.C.

Sir.

I have the honor to transmit, herewith, under separate Cover, one copy of Vol. II. of "Treaties and Conventions between the Empire of Japan and Other Powers.

I have the honor to be

Sir.

Your obedient-servant.

John F. Swift

Enclosure.

As above, separate.

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 20 1890

Ack'd by draft of
J.B.M.
March 20/90

Mr Crosby

No. 80.

Legation of the United States.

Tokio Japan, Jany 3. 1890.

Mr Swift:

To the Secretary of State.

Subject:

Commemorative medals presented to American citizens by the Emperor of Japan. Can they be accepted through the U.S. Legation?

No. 80. Legation of the United States.

Tokio Japan, Jany 3. 1890.

Hon. James G. Blaine.

Secretary of State.

Washington D.C.

Sir:

I have the honor to transmit herewith a copy of a communication from H.E. Vis-Count Aoki, H. I. J. M's. Minister for Foreign Affairs addressed to me, which, as you will observe, requests me to transmit to each of certain American citizens therein named a medal and brevet commemorative of the Promulgation, in February 1889. of the Imperial Japanese Constitution and of the fact that the said American citizens were present on that occasion and witnessed the

Ceremony

ceremony. The American citizens to whom I am requested to forward these medals and brevets are, my predecessor in this mission, Ex Governor R. B. Hubbard; Mr F. S. Mansfield, late Secretary of Legation, both now living in Texas; Mr Edwin Dun present Secretary of this Legation, and Dr. Whitney interpreter.

I may also mention that they were present at the ceremony as representatives of the United States.

Inasmuch as both Governor Hubbard and Mr Mansfield have ceased to hold any diplomatic or other official relation with the Japanese Government there appears no reason, so far as I can see, why the acceptance or refusal of the articles thus offered them

them may not be left to their own discretion, at least so far as I am concerned. For that reason and in view of their recent position at this Legation, I felt called upon, as a matter of courtesy due to my predecessor and late Secretary, to forward the medals &c, direct to them without comment or suggestion, which I did. I trust this action may not meet with your disapproval.

Whether the medal referred to is such a present or other gift as falls within the inhibition of Sec. 1751 of the Revised Statutes is a question that I do not feel called upon to decide, but refer to yourself for instructions in future cases, for in the case of Governor Hubbard and Mr Mansfield I have already acted

acted, at least as to sending the medals.

It is true, however, that in case they accept or reject, I shall be hereafter called upon, officially, to notify the Government of H. I. J. M. of the fact.

If it be such inhibited gift, it is quite possible that I am wrong in forwarding it to any citizen who, by law, cannot accept it.

I was recently requested by H. I. M's. Government to forward to a gentleman in the U. S. Consular service in Japan a medal recognizing his action in jumping into the sea and, at evident risk to his own life, rescuing a drowning Japanese subject. I forwarded the article to the gentleman without offering any opinion as to his

right

right to accept it, but leaving that question to himself. I did so because I thought the medal, issued under such circumstances, hardly fell within the restriction of the statute. Nor, except upon a very strict construction of the statute, perhaps, does it in the medal commemorative of the New Constitution which I have forwarded to Governor Hubbard and Mr. Mansfield.

But it is exceedingly probable that the question is not a new one to the Department and that it may have been long since settled one way or the other.

Whether the U.S. Minister here can properly in any case be the medium of communication and transmission

of any kind of testimonial between the Government of Japan and citizens of the United States, is a question in my mind not entirely free from doubt and if there be a settled rule, I should be glad to know and will cheerfully follow it.

Another question I wish specially to be instructed upon. You will observe that the other citizens to whom these medals have been issued are Mr. Dun and Dr. Whitney. These articles are now in this Legation.

Mr Dun being actually Secretary of this Legation, it follows that the objection to his accepting, if any there be, grows out of the question as to whether this Commemorative medal is such a present, emolument, favor or, as

is

is prohibited United States diplomatic officers by the Constitution and laws of the country and especially Sec. 1751 of the Revised Statutes. If so it would seem as a logical result that I have no right to offer it to them, but should return it to the Foreign Office with a statement of the reasons. The same may be and, probably, is the case as to Dr. Whitney's right to accept the medal issued to him. It is possible Dr Whitney who is merely Interpreter to this Legation and not technically a Secretary may not stand in precisely the same position in the premises with Mr. Dun - although the reason of the rule would certainly seem to apply as strongly in his case as in that of any

other

other diplomatic employes. Yet I separate them and ask for instructions in each case and, also, in Governor Hubbard's.

I have the honor to be
Sir,
Your obedient-servant,
John F. Swift

Enclosure.
Viscount Aoki to Mr Swift, Dec. 18, 1889
with its Enclosure.

Enclosure with Mr. Swift's No. 80.

Translation Copy,

Department for Foreign Affairs,
the 18th. day, the 12th. month,
the 22nd. year of Meiji.

His Excellency

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Sir,

His Imperial Majesty, my August Sovereign, having been graciously pleased to confer the Medal commemorative of the promulgation of the Imperial Constitution upon those gentlemen who attended the ceremony on February last, I have the honor to forward to you herewith the brevet and the Medal and the accompanying note, and beg to request that you will transmit the same to Your Excellency's predecessor, Mr. Richard Hubbard, and three other gentlemen as specified in the enclosed list, who attended the ceremony.

I also enclose herewith receipt forms, which you will be so good as to return to this Department when duly signed by the recipients.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) Viscount Suizo Aoki,

Vice-Minister for Foreign Affairs.

Enclosure.

Name List:

His Excellency Richard Bennet Hubbard, Envoy Extraordinary and Minister Plenipotentiary.

Frederick Sherwood Mansfield, Esq., First Secretary.

Edwin Dun, Esq., Second Secretary.

Dr. Willis Norton Whitney, Esq., Interpreter.

DEPARTMENT OF STATE
JAN 6 1890
RECEIVED.

From U. S. Legation to Japan

714 N. Howard Street
Baltimore Md January 4th 1890

Hon. Jas. G. Blaine
Secretary of State
Washington

DIPLOMATIC BUREAU
JAN 7 1890

Sir:

I have the honor to submit herewith a statement of my salary account for the quarter ended December 31st last, as follows:

Salary from October 1st to Dec. 31st 1889
at $2500 U.S. Gold per annum = $625 = £128.8.7

Drafts on London as follows:

1	dated London October 24/89	for £15..
1	" Philadelphia Nov 11/89	" £25..
1	" Baltimore Nov. 30th/89	" £43.0
1	" " Dec. 31/89	" 45.. 8.. 7
	Total	£128.. 8.. 7

I have drawn my salary up to the 31st of December in the above account, because arrangements have been made, with the approval of the Department, for a substitute at Tokyo at my own expense until that time, when my former leave with the travelling allowance

? ? would have about expired, and from which time I asked for a new leave of 60 days on condition that Mr Swift be authorized to draw my salary until my return and pay the same to my substitute.

My address will be until further notice as above, but I hope very shortly to be able to start for Japan as my children are rapidly improving.

I have the honor to be
Sir
Your obedient servant

Willis Norton Whitney
Interpreter of Legation
(Tōkyō)
on leave.

DEPARTMENT OF STATE
JAN 29 1890
RECEIVED.

No. 81.

Legation of the United States.
Tokio Japan. Jany 4. 1890

Mr Swift-
To the Secretary of State.

Subject:

The question of the advisability of the United States separating herself from the other Powers in treaty negotiations with Japan discussed.

Suggestion that certain European Powers be informed that no immediate changes of treaty stipulations with Japan is contemplated

No. 81. Legation of the United States.
Tokio Japan. Jany 4. 1890.

Hon. James G. Blaine
Secretary of State.
Washington D.C.

Sir,

I have the honor to acknowledge the receipt of and to thank you for your letter of instruction, No. 40, dated the 6th ultimo, touching Treaty Revision generally, and especially giving the purport of the Administration with respect to the Treaty signed Febry. 20. 1889. It is both gratifying and encouraging to me, to find that the Department of State so fully appreciates the situation, and that difficulties that I have sensed

to

to me to threaten our interests and relations out here, have already attracted your attention. I observe that you have foreseen the embarrassment we are likely to encounter in future negotiations, growing out of the circumstance that other Powers have already concluded Treaties similar to the one above named, and that you have not overlooked the tendency to isolate the United States, nor the consequent disadvantages from such a result.

There are many reasons tending to cast doubt upon the policy, as well as propriety, of the United States disconnecting herself abruptly, and at a single step, from

from the other Western Powers, when treating with Japan upon questions of jurisdiction, and the personal status of her citizens resident here, as was done in the Treaty of February 20, 1889.

I am far from being of the opinion that the United States ought not to treat separately, upon a large number of matters, nor even upon the question of jurisdiction and personal status, under proper circumstances, and especially after full and fair notice to the other western Powers.

But there are strong reasons for thinking, that the long continued diplomatic, military and naval accord we have had with the other Powers, during the development

of

of modern ideas in Japan, extending as it has over nearly a third of a century, during which time the citizens and subjects of different Western Nations have been protected when in danger, as readily and as loyally by the armed forces of other powers as by that of their own, should not be repudiated by any State that has benefited by the system, till the necessity of its termination has been practically acknowledged by the others. How can the fact be lost sight of, that but for this same diplomatic accord and joint action, the pioneer Merchants, American and European, who came hitherto

trade

trade, as well as the Christian missionaries who came to teach, might have been expelled from these islands, if not exterminated, and this at a period within the memory of living and not very old men. These former merchants though primarily and as individuals each was pursuing his own personal interests, yet taken together they were perhaps the most powerful influence in guiding the reluctant steps of Japan along the paths leading to enlightened civilization. The same was true of the missionaries whose perils have been even greater while their material profits were much less. I trust and believe that

that the splendid progress made by Japan, within the last twenty years, which is so manifest that all the World can see it, has completely changed these conditions, and that they will never be reproduced. But that is a question which we may not settle at once for ourselves, without, at least, asking the opinion of our allies, and hearing what they have to say. And if in the anxiety of our representatives to gain a diplomatic victory, we ignore those with whom we have so long acted, (as I believe for the benefit as well of our own citizens as of the Japanese,) we find ourselves isolated, or left behind in the march of Events

it

it seems to me we can hardly lay the blame at the door of others. In addition to this, we can hardly rid ourselves of the suspicion that in making the attempt, we have approached dangerously near to the borders of bad faith.

It will be remembered that during the period of diplomatic Co-operation at least two efforts were made to revise the Treaties, by means of conferences of all the Powers, the last met as recently as 1886.

Had this Treaty of February 20, 1889, followed, substantially, the lines of what the Powers, practically, agreed upon at the last Conference, our action would have been less

open

open to question by the other Powers concerned, than it is. But this was far from being the case. The Treaty, practically, agreed upon by all of the Powers represented at the Conference of 1867, including Japan, by necessary ~~implication~~, fully admitted the fact that the laws and institutions then and now existing here are not such as foreigners of American and European origin can live under, in comfort or safety; and as a guaranty of the security of such foreigners in person and property, it was agreed that the Treaty should not take effect, nor Consular jurisdiction terminate, until the Laws of the Country were assimilated.

assimilated to European systems, of which the representatives of the foreign Powers, were to be the final judges. In fact the Codes were to be submitted to them for their approval or disapproval before being enacted. In addition to this a full bench of foreign judges was to sit and administer these laws, in all cases where foreigners were parties. At the last moment, while every thing appeared to be moving on harmoniously to a revision of the treaties upon these lines, the same thing occurred, substantially, that has just happened to disturb the present negotiations; popular clamor against the work of the

Conference

Conference became so serious, that the administration of H. I. J. M. which had convened the conference was driven from power, and a change of Cabinet brought an abrupt end to the whole business.

The succeeding administration at once set about seeking a revision of the Treaties; but of course, on new lines. The new Minister of State for Foreign Affairs, began his great negotiations with the representative of the United States, who readily agreed to a separate treaty, having very little resemblance to that drafted out by the Conference and, if I am not misinformed, without calling the attention of his Colleagues to what he was doing.

Yours

Now it will be difficult to give any good or even valuable reason for carrying on this, so far as we were concerned, secret negotiation. We gained neither in honor nor in profit for the United States; and it now turns out, that Japan has done even less. True we were not bound by any legal or moral consideration to continue joint diplomatic action, indefinitely. We were not restrained by any written obligation express or implied, from separate negotiation, and separate action. But we were it seems to me under a clear duty, to let our European allies know what we were doing.

and

and to give them a chance to make by contemporaneous, if separate, negotiation, similar treaties. We owed it to them, after our merchants and missionaries had shared with theirs for so many years in the ups and downs of Japanese progress and development, with its dangers, if I may be allowed to use the term, and had so often availed themselves of their protection when needed, now that the danger seemed passed to, at least, fear what they had to say as to the timeliness of the discontinuance of those extra-territorial privileges and jurisdictional regulations that had been obtained and held for the protection and security of all. Had we gained any

special

special advantages for our countrymen over other nationals by this march stolen upon our European allies, we should be able, at least, to point to such material profit as the result of repudiating our obligations, if I am correct in so terming them.

There has been much talk to the effect that the United States having been the first to accede to the just demands of Japan for a restoration of her sovereign rights, our people are to obtain in return somehow not explained large benefits not distinctly described, but understood to be in the nature of trade advantages

If by that is meant that the Japanese are likely, from motives of gratitude, to buy their goods any where but in the cheapest market I should be disposed to insinuate a doubt, based upon the opinion I have deliberately reached, that this amiable and excellent people are much like other folk, when business is concerned. They are not any more likely to be sentimental in commerce than Americans.

There has been a good deal said in the papers and out to the effect that the great European Powers, notably Great Britain, have been unjust to Japan and have oppressed her. I think this idea has been exaggerated in

then

the United States. What pressure she may have brought to bear to secure trading advantages I do not speak of, nor has it any bearing, for I am considering the question of jurisdiction and personal status of foreigners alone. But I think it no more than justice to say, that in most things bearing upon Material advancement, Educational development and progress towards Western Civilization, and especially in what pertains to the final if gradual establishment of Japan amongst the Sovereign Powers of the Earth, the conduct of Great Britain has been, upon the whole, wise and just if not actually generous

generous. Nor has this justice been done according to some fine spun theory of her own, by which strong states so often assume to decide what is best for weak ones, but in the main she has helped Japan along the line she surely has desired to go. The truth is that Japan for thirty years has been an international pet. And while I know of no people more worthy of the kindly interest civilization takes in them than the Japanese, there is some danger that by overpetting they may grow up just a little spoiled. One of the injuries constantly inflicted upon them is, what may be called, the sentimental perversion of history leading

leading them to a wrong view of their own case, as it actually stands. No little has been said and written about the conduct of the several Powers who in 1863 participated in the operations at Shimonoseki against the Prince of Choshiu, and especially for exacting and keeping a money indemnity on that occasion. The conduct of the United States in refunding its share of the fines then exacted has been contrasted with that of the other Powers, notably Great Britain, to our own credit and their disadvantage of our allies who have not yet done so. It seems to me that true history has been perverted and the people of the United States, and what is worse, their

the people of Japan have been misled as to the merits of that affair.

The period was the most critical in the modern history of Japan. The Shogun's Government seems to have been, in good faith, trying to maintain treaty obligations and to protect the lives of the foreign residents, while a powerful party of reaction, headed by the Choshiu and Satsuma Princes were determined to drive them out, and to undo all that had been done.

Assassinations of foreigners followed each other with appalling frequency, and shocking details. It is not possible that they could have remained

in

in the Country had it not been stopped. To add to the difficulties the Southern Princes, with Choshiu in the lead, undertook to close the inland sea and for that purpose inaugurated a state of war. The Shogun, though perfectly willing, seems to have been unable to cope with the rebellious Chiefs. He not only was not strong Enough to suppress the open rebellion but was equally powerless to stop the assassinations that were taking place in his Capital. The Princes of Satsuma an Choshiu were Sovereign in every thing but name. Had any of the Powers, and especially Great Britain, been inspired by a motive hostile to Japan, the opportunity to divide the Empire was within Easy grasp.

There

There would, apparently, have been little if any difficulty in the way of treaties being made separately with each of them and converting the rebellious Princes at once into Kings of Satsuma and Choshiu, and instead of one Japan there might today have been at least three.

Any one of the allied Powers except the United States, if its history had been searched, could have found plenty of precedents for such a proceeding. Each of the Powers engaged, except the United States, has in the course of its history seized and occupied the territory of another nation under circumstances much less aggravating than existed in this case. To the lasting honor of all concerned nothing of the kind was done. On the contrary, with Great

Britain

Britain in the lead, and with the consent of the Shogun who stood for United Japan, the fleets of the Powers sailed into the Inland sea and inflicted a chastisement upon the rebellious and reactionary vassal, that turned the scale, and probably settled the fate of the Empire; and rendered possible all that has followed in the way of higher civilization and advancement so creditable to this high spirited and really progressive nation. Similar punishment had been inflicted upon Satsuma, by Great Britain alone, a short time before, for the murder of British subjects.

The effect of these acts of war was most salutary. They were an absolute blessing to

to Japan.

From that time the attacks upon foreigners practically ceased. The Empire has been consolidated and the progress of Japan may almost be said to have dated from that period. The act of the United States in returning her share of the indemnity fund was creditable to her generosity but to the extent that its restoration was based upon the idea that its original collection was an injustice thus placing Great Britain and our allies in the position of wrong-doers — it was a falsification of history, and tends to mislead the Japanese as to the conduct, duties and liabilities of

Nations

nations in their intercourse with each other. I mentioned to you in my dispatch No. 73 that I was conscious of a distinct weakening of American influence which I estimated as resulting, in my opinion, from the hasty conclusion of the treaty of February 20th, 1889, taken along with what has since occurred. The unexpected projection of that treaty into the diplomacy of Japan caused what I termed a "stampede". Of notice had been served upon the other powers of what was intended many deplorable things that have happened might have been avoided. In a certain sense both life and limb that have been lost might still

still exist had more caution, if not more good faith been used in the negotiation, to say nothing of the fact that no embarassment growing out of our being isolated from the other powers would have arisen.

Referring to my dispatch No. 76, of date the 28th. ultimo, and to the conversation I recently had with His Excellency Viscount Aoki therein detailed in which I was informed that H. I. M's Government now have an understanding with the United States to the effect that the time for the treaty of February 20th, 1889, to take effect will be postponed long enough to allow of Japan

to

to carry on further negotiations with the European powers in the way of treaty revision. I beg to suggest that in that direction lies increased embarrassment and prolonged — isolation from the other powers, whatever effect that may have. And if that is a thing to be — avoided, I take the liberty of respectfully asking you to consider whether it might not be well to communicate with the other states having subjects settled in Japan, directly from Washington to the Capitals of those powers at least to the extent of removing from such powers any apprehension they may entertain that the United States intend to

make

make an immediate change by
separate action in the treaty
rights they now hold in Japan
as to consular jurisdiction, personal
states and the like.

I have the honor to be
Sir,
Your obedient servant,
John T. Swift

Kieckhoefer

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

DIPLOMATIC BUREAU
FEB 12 1890

Legation of the United States.
Tokio Japan, Jany 16, 1890.

Mr Dun.
To the Secretary of State.

Subject:
Accounts for the quarter Ended
December 31, 1889.

Legation of the United States.
Tokio Japan. January 15. 1890.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir.

I have the honor to enclose herewith statements of my accounts for the quarter ended December 31. 1889 as follows:-

Statement of Account for salary.
Statement of account for Loss by Exchange on my drafts dated respectively, Oct 31, Nov. 30, and December 31, 1889. together with Exchange Voucher signed by the Manager of the "Hong Kong and Shanghai Banking Corporation" and myself.

I have the honor to be
Sir,
Your

Your obedient servant

Edwin Dun

Secretary of Legation

Enclosures

Statements of accounts, as above

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

DIPLOMATIC BUREAU
FEB 12 1890

Mr. Kiernan for

No. 82.

Passport returns to
Mr. Rhodes Ltd Feby 17/90

Legation of the United States.
Tokio Japan, January 15. 1890.

Mr Swift:

To the Secretary of State.

Subject:

Accounts for the quarter ended Dec, 31. 1889, Passport return for the half year Ended Dec, 31, 1889.

No. 82. Legation of the United States.

Tokio Japan January 16. 1889.

Hon. James G. Blaine

Secretary of State.

Washington D.C.

Sir:

I have the honor to enclose, herewith, my accounts for the quarter ended December 31, 1889 as follows:-

Statement of Account for Contingent Expenses with Abstract and eight vouchers.

Statement of account for Salary.

Statement of Account for Loss by Exchange on my drafts, from May 13. 1889 to December 31, 1889, with Voucher.

Passport return for the half year Ended December 31. 1889, together with three passport application forms duly

duly filled out, as required by the Department.

I also enclose herewith, passport No. 4489, issued December 8, 1882, by Mr. Frelinghuysen, then Secretary of State, to Julius Rettkowski, a naturalized citizen of the United States.

I have the honor to be

Sir,

Your obedient servant,

John T. Swift

Enclosures.

1. Accounts, passport return &c. as above.
2. Passport No 4489, from Department of State, issued December 8, 1882.

Sent by Mr Coolidge

No. 83.

See recent telegrams to Mr Swift in regard to the treaty

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

Dale

Secretary of State.
MAR 3 1890

Mr Coolidge

Legation of the United States.

Tokio Japan. January 16, 1890.

Mr. Swift:

To the Secretary of State.

Subject:

Public opinion in Japan relative to treaty revision. Advisability of letting Treaty of February 20, 1889 lapse. and of sending preliminary instructions to Mr Swift in case new proposals for treaty revision are submitted for consideration by Japan.

No. 83. Legation of the United States.

Tokio Japan, January 16. 1890.

Hon. James G. Blaine

Secretary of State.

Washington D.C.

Sir.

In acknowledging the receipt of instruction No. 43. from Mr. Wharton, as I now have the honor to do, I venture to suggest that just at this stage of the revision proceedings there exists an important, if not critical juncture for the United States in its relations with Japan and well worthy of your careful attention and consideration.

It is now manifest that the treaty of February 20, 1889. has fully served the purpose for which the Japanese Plenipotentiaries

Plenipotentiaries originally intended it; namely, of forcing the other Powers to entertain a scheme of revision more nearly approaching to Japanese views than had before been thought attainable.

To the best of my belief, it was not expected by Japan that the treaty of February 20, 1889 would be agreed to in terms by the principal European Powers, especially by Great Britain. It was intended to operate as a surprise, in the sudden and unexpected breaking away by the United States from the other Powers, to be accompanied with as much noisy detonation as possible. Such as in fact did result with the announcement. The suspicion is to my mind unavoidable that

we

we were unconsciously made to play the roll of *deus Ex-Machina* in a "coup de théâtre" and one which was so adroitly managed by the Japanese Plenipotentiaries that it came near producing the effect of a successful *Coup d'état*. There is no doubt that Japan Expected to grant, and Counted upon granting to Great Britain, terms considerably in advance of those given to the United States, if not in jurisdictional guarantees, then in Commercial advantages, if found necessary to bring that Power over to the scheme.

Of course such terms would in the end have been extended to the United States, so far as they were capable of being extended. And the advantages to Great Britain consisted of favorable

Changes.

Changes in the Customs tariff the different conditions of the two countries would have prevented any thing more than nominally equal benefits. But the sudden falling away of several of the leading European Powers from the long sustained status quo, and the general disposition to scuttle along in the seeming wake of the United States, was a complete surprise to most Japanese politicians, perhaps to all save Count Okuma and his staff who were managing the performance.

It is now manifest that but for the violent and, perhaps, unexpected opposition that, during the summer and early autumn, developed apparently among the people, treaty revision would before this time have been accomplished

accomplished, if not upon the lines of our own convention of February 20, th. upon lines not very remote from them. The outcome had already narrowed down to the question of what Great Britain would do. True, it now turns out that that Power was not actually in the situation of isolation she seemed upon the surface of things to be. There is some reason for suspecting that certain of the other Powers had, informally, agreed with Lord Salisbury to await his action before final ratification. It is almost certain that additional concessions would have been finally yielded by Japan, if found necessary to bring Great Britain around and that it was Japanese influences alone

alone that put an end to negotiations which, otherwise, were going forward steadily to completion.

Whether the sudden popular outbreak that so abruptly terminated the negotiations and drove the Kuroda Government from power, was, as has been asserted, or was not, worked up by Count Okuma's political rivals, is a question I shall not attempt to decide. But admitting such to have been the case there must have been at the bottom of all this bubbling and commotion some real force in the popular mind for these scheming political rivals to work upon. To hold the contrary is to assume the Japanese to be a nation of mere wired puppets to be worked with

with strings. This I cannot assent to. There are many difficulties lying in the way of a general re-arrangement of the relations between Japan and the Western Powers in accordance with the aspirations of the educated and liberal Japanese statesmen both in and out of office, not the least of which are the habits, opinions and prejudices of the great body of the Japanese people, outside of ordinary political life. I am perfectly willing to believe that the members of the present Government, perhaps to a man, if they possessed the power, that is if they could do so with safety, would gladly adapt the laws of the country and modify the treaties so as to give to foreigners resident

resident- in, or visiting, Japan the same rights, privileges and immunities enjoyed by such foreigners while visiting or residing among the Christian nations of Europe and America. But they have the people of Japan to reckon with. First, their prejudices against foreigners built- upon ages of laws and teachings all tending in that- direction, and, secondly, their fear of foreign competition which is Even a more powerful motive than their prejudices. In fact I am strongly inclined to the opinion that- this dread on the part of the political Element in Japanese life, of competition, in business and property ownership, with foreigners more than any tradition or sentiment- was the feeling that- operated to break down the late treaty plans of Count-

Okuma

Okuma.) In offering this suggestion I do not overlook the fact that the recent attacks upon Count Okumas treaties was mainly directed, so far as public Expression was concerned, at the "Diplomatic Notes", as they were called, which were appended to the treaties, by which Japan agreed that a certain number of Judges of foreign origin should sit in the Courts. The point was made, and dwelt upon with great pertinacity, that this was a violation of the New Constitution. But I cannot help suspecting this to have been, to a large degree, a mere political shift, and that it did not embody the real objections of those making it; nor even approach them. It was also claimed that the sitting of foreign Judges in

Japanese

Japanese Courts would be a humiliation to Japan. Count Inouye's plan of treaty revision as formulated and practically agreed upon in the Conference of 1886, when approaching consummation was suspended to avoid a distinctly threatened popular outbreak that might have extended to even a civil war. The people would not have it. In that case the same pretense was put forward by the Japanese politicians, namely that Japan would be humiliated. At that time the supposed humiliation arose from the fact that the treaties were to contain an agreement that Codes of laws, modeled upon Western systems, should be promulgated before the treaties could go into

operation

operation. But I doubt if the real motive was announced. Perhaps it was not very clearly understood. The forces that have, on two occasions, sprung up so suddenly and unexpectedly, to baffle the plans of the Government, do not seem to me likely to act upon so refined and subtile a motive as those publicly assigned. And I have reason to think that the protesting masses, who attended the anti-treaty meetings in September and October last, were moved, by what, at least appeared to them to be interests of a far more material and substantial nature. I have reason to suspect that the great portion of Japanese of the better class, the capitalists, the professional men, the

the merchants and the shipowners, the manufacturers and landed proprietors, regard with feelings of apprehension and alarm, amounting to absolute fear, the general and unrestricted introduction into the country of foreigners with their capital and skill, and the consequent, as they believe, unequal competition they will necessarily be forced into with men whom they consider their superiors in all that pertains to finance, commerce and production.

If this be true and I am inclined to think it is, then it must so long as these conditions continue, be exceedingly dangerous to the public peace to force upon the country any thing like a general right of residence, occupation

occupation and property acquisition in Japan by foreigners.

To this state of things, certainly existing to a more or less degree, I wish to call your special attention as being a controlling factor in the problem to be solved, in fact the key to the entire situation. And it is utterly idle to assume, as is too often done that because this dread of competition is an absurd and groundless one that; therefore, it is to be ignored. It cannot be ignored with safety, and no body is more fully aware of it, than the Enlightened and talented Statesmen now at the head of the Japanese Government.

During the past summer, when the agitation against Count Okuma's treaties

treaties was at its height, I learned it to be a fact that the retail merchants of the "Ginza", a busy thoroughfare of Tokio, occupied to a considerable extent by small shop keepers, were greatly alarmed at the prospect of immediate treaty revision, being generally of the opinion that if the proposed treaties should be concluded and put into operation, a swarm of foreign merchants would invade their street with opposition stores and drive them into bankruptcy and ruin, and that there was considerable danger that they might, in their terror, go to almost any length to ward off the anticipated disaster. The absurdity of such a belief was so manifest, that foreigners

generally

generally spoke of it as ~~further proof~~ of the ignorance of the Japanese trading classes and, in effect, treated it as a joke. But it was no joke to the — "Ginza" shop keepers. That they would do any thing in their power to save their little estates from destruction is but natural to expect; And when account is taken of the methods Japanese so often resort to, when driven to desperation, namely, assassination and suicide, it is only the part of true statesmanship to take their opinions and methods into account as an important political factor.

If the administration which came into power at this juncture, were in fact intending to go forward with

with treaty revision on anything like the lines marked out by Count Okuma and formulated in the treaty of Febmary 20. 1889, there might be no special necessity for the United States taking any other or different action in the matter than that which was agreed to in response to the request of Mr Mutsu as indicated in the instruction No. 43, But it is not at all likely that any such policy is in contemplation. If I am not greatly misinformed as to the plans of the Government, what has been gained is to be kept and further demands are to be made. There is no doubt that within a very short time, probably before this can reach you, negotiations will be entered upon with the other

Powers

Powers. What the fresh demands will be I can only conjecture. The highly Educated and travelled class, especially those who participate in the Government, wish to abolish the extra-territorial privileges of foreigners, regarding them as a badge of national inferiority. They love their country and do not like to see conditions imposed upon it from which the great European Powers are Exempt: The middle, producing and trading, classes, probably taking counsel of their fears intermingled with a certain quantity of not yet Extinct-dictate, wish to keep foreigners within safe restrictions as to residence, travel, and property ownership

A treaty which would render foreigners amenable to Japanese laws,

Laws, Courts, and Police and at the same time restrict them to the limits of present treaty concessions, would be a compromise that would give general satisfaction to all classes of Japanese. It is doubtful if any thing much short of that will entirely do so. It is hardly probable that any thing so drastic will be proposed, but I shall be surprised if it is not sought to reserve more power to the Japanese Legislature to restrict the privileges of foreigners, if found necessary, than any suggestion heretofore made. If the Japanese Government were prepared to offer to place the relations of its people with foreign nations, on the exact footing that Christian nations bear towards

towards Each other the position would, at least, be different from what it is. But they are not. And I must assume that the leaders of this Government are taking all the facts I have set forth, into their calculations; and that they will make no treaty that does not reserve to them the power to restrict and regulate the general financial, Commercial and industrial rights and privileges of foreigners throughout the Country.

That they will not only demand that, at a very Early day, all foreigners shall submit themselves to the operation of Japanese laws administered by Japanese Courts, but that they will not agree that when they so submit

they

they shall have the same privileges of production, trade and property ownership as natives, nor as foreigners Enjoy in the Christian States of Europe and America.

As to the propriety of abolishing Extra-territoriality, I do not, at present, venture to express any opinion. But I am decidedly of the opinion that great caution should be used in extending to foreigners, the privileges of doing business, Mercantile, professional and industrial, in direct competition with native Japanese generally over the country. The plan originally adopted, and still existing, of detached Commercial settlements, removed from established business centres, in which all foreign trades

were

were to reside and carry on their business, reduced friction between native and foreign merchants to the minimum, by keeping them entirely separate, and competition out of sight and, consequently, out of mind. Those Japanese who wished to deal with the foreign merchant had to go and seek his place. Thus, in time, towns like Yokohama and Kobe grew up, in which the foreigners and such Japanese as were interested with them were the sole residents. But should foreign merchants enter into Japanese business centres and share the trade, every failing Japanese merchant would attribute his ruin to foreigners generally and might take vengeance upon any or all. To say the least, there would be friction. I doubt if the Government will offer in their new propositions,

proposition, to permit general trade over the country without some power of restriction. They will retain power to restrict and, if necessary, will exercise the power. The necessity will almost certainly arise if foreign merchants enter into general competition with the native, at least, under existing conditions. And I freely confess that I think they will be wise to reserve the power and under circumstances that are possibly if not probable in exercising it. Nor do I see in this any necessarily insuperable obstacle to the United States coming to an agreement with Japan. I am not of the opinion that a right of general residence over the country would be of such considerable advantage to American merchants or manufacturers as would justify an act that might jeopardize

jeopardize the peace and welfare of Japan. I do not think our merchants would largely take advantage of the extended privileges, nor that they would find any considerable profit in it if they did. I think they would still remain chiefly at their present settlements.

It would certainly be an advantage to our Missionaries, to be able to go at will over the country would increase their efficiency and greatly add to their convenience; and, so far as I can see, their greater freedom would not be likely to lead to any serious complications although of this I do not speak confidently.

As for the right to the ownership of land, beyond that necessary for residences and

and business purposes,
I do not consider it of
overshadowing importance.

I feel confident that
the right for our people
to speculate in Japanese
land, is not one that we
are likely to insist upon
having, if it is to be
reluctantly conceded.

On the other hand I
take it for granted, that
the United States is
earnestly desirous of
Maintaining

maintaining its old time friendly interest in the welfare of Japan. That it is willing and indeed anxious to surrender every jurisdictional privilege its citizens hold in this country the moment it can be done with safety to them and beneficially to Japan. But I cannot help thinking the treaty of February 20, 1889, in consideration of the anomalous part it has been made to play in Japanese diplomacy, and is likely to go on playing, if kept in abeyance, as indicated in instruction No. 43, is likely to be a hindrance to any ~~——~~ sound work of treaty revision and not, by any means, likely to benefit either of the signatory Powers.

And

And in view of the probability that upon a reasonable and just construction of Art: XXIV, the treaty itself, if not confirmed by the Senate and ratifications exchanged at Tokio previous to the 11th of February 1890, will on that day lapse and become void, I beg to suggest for your consideration whether it would not be judicious to treat it as having lapsed at that time, and what in my judgment is of paramount importance, that the fact be made public.

In this same connection and in view of the probability that at an early day I am likely to be asked to consider proposals for a modification of the treaties

and

and, perhaps, to telegraph them to the Department; and to avoid, if thought worth while, the expense of such telegraphing, as well as for greater convenience generally,

I have the honor to request that in case it is deemed desirable to in any manner economize time and money in that way, that you will consider the advisability of instructing me to receive such proposals and even to preliminarily discuss them, to a certain extent, subject to your final approval; and, perhaps, to get them into some intelligible shape, before sending them forward for your consideration and action. Such discussion need not extend beyond the intervals between the sailing of steamers by which

full

full despatches of all that occurs, can be sent forward.

I may mention that as I now construe my powers and duties, I should most likely, if approached on the subject, decline to do more than hear what is said and refer the matter to my Government without discussion. Whether that would be to the advantage of American interests, or not, may depend upon a variety of considerations which you are better capable of passing upon and deciding than I can be

I have the honor to be
Sir
Your obedient servant.
Joseph Smith

Mr Kieckhofer

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

DIPLOMATIC BUREAU
FEB 12 1890

Legation of the United States,
Tokio, Japan, Jany. 17, 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Statement of Salary Account.
for Fraction of Quarter
closing Dec. 31, 1889.

Legation of the United States,
Tokio, Japan. Jany. 17, 1890.

Hon. James G. Blaine,
Secretary of State.
Washington, D.C.

Sir:

I have the honor to —
inclose a statement of my
salary account for the fraction
of the quarter closing Dec.
31st., 1889, between the dates,
inclusive, of Nov. 28th., 1889,
and Dec. 31st., 1889.

I have the honor to be
Sir,
Your obedient servant,
W. R. Gardiner Jr.,
Secretary of Legation.

Kieckhoefer

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

DIPLOMATIC BUREAU.
FEB 12 1890

Legation of the United States.
Tokio, Japan, Jany. 17, 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Duplicate of Transit Salary Account.

Legation of the United States.
Tokio, Japan. Jany. 17, 1890.

Hon. James G. Blaine,
Secretary of State.
Washington, D. C.

Sir:

I have the honor to enclose herewith a duplicate of the ——— statement of my transit account covering the period occupied in transit from Washington, D. C., to Tokio, Japan, my post of duty.

I have the honor to be
Sir,
Your obedient servant,
W. R. Gardiner Jr.
Second Secretary of Legation.

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

DIPLOMATIC BUREAU.

FEB 12 1890

No. 84.

Legation of the United States.

Tokio, Japan, Jany. 17, 1890.

2D ASSISTANT SECRETARY.
Copy to Secy of Navy asking information as to precedents for such a request.
FEB 12 1890

Rd so Feby 13. 90. Blood.

To Mr Swift 21 Feb.

Mr. Swift

To the Secretary of State.

Subject:

Request of Rear Admiral Belknap to establish permanent target supply station in Japan.

No. 84. Legation of the United States.

Tokio, Japan, Janu. 17, 1890.

Hon. James G. Blaine,

Secretary of State,

Washington, D. C.

Sir:

I have the honor to enclose herewith a communication recently received from Rear Admiral George E. Belknap, Commander-in-Chief of the U. S. Squadron upon the Asiatic Station, requesting me to apply to the Government of Japan for the privilege of establishing a station near Nagasaki to be used by the U. S. Navy for permanent target practice with the necessary place for stores, magazines and other appliances.

On

On receiving this communication I inquired verbally of Admiral Belknap if he knew of any precedent for such a permission and if it was usual to make such application and to obtain such concession. He answered that it was usual for foreign Men-of-War to exercise such privileges in China, though how they were obtained, whether asked for or taken without permission, he was unable to say. Beyond that he knew of no similar cases.

In view of what I hear of the sensitiveness of the Japanese Government about being treated on a different footing

footing from leading Western Powers, I have not felt it to be proper or discreet to make the application before fortifying myself with precedents other than those drawn from the method pursued by foreign navies in Chinese waters. It seems to me not improbable that such stations may exist in the remote colonial possessions of Great Britain or Holland, which, if the case, might satisfy the Japanese Government.

In as much as the Navy Department has ordered Admiral Belknap to communicate with the Japanese Government on the subject, resulting in his application to me, it may be that

the

the request is one usual to be made by our Navy, perhaps through the Minister, and that there are precedents for it which it is my duty to follow. I have therefore the honor to request that you will instruct me what to do in the premises, and if there are any cases where such privileges have been conceded by the — Governments of Western States, either at home or in their colonies, I am quite sure they will greatly tend to render the matter of easy adjustment and show the Japanese Government that we are not asking anything unusual. I doubt the advisability of asking of

His

His Imperial Japanese Majesty, on the strength of privileges exercised in China, anything not mutually extended between Western Nations and shall not make the formal application till instructed by you.

I have the honor to be
Sir,
Your obedient servant.
John F. Swift

Enclosure: Copy of Rear Admiral Belknap's letter, as above.

Enclosure with No. 84.

(Copy)

No. 181, Misc.

Asiatic Station.
Office of the Commander-in-Chief.

Flagship Omaha,
Yokohama, Japan, Dec., 5th., 1889.

To Honorable John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary near the Government of Japan, Tokyo, Japan.

Sir:

The Navy Department desires to establish within the limits of each station one or more places suitable for target practice of all kinds where target and other appliances necessary for the convenience of ships resorting to them may be stored. The places so selected need to be ready of access by mail or telegraph and to admit of carrying on all kinds of target practice, viz: that of ship and boat guns both anchored and moving, and that of small arms both at the butt and in skirmish and other formations.

I think a suitable place could be found near Nagasaki and I have the honor to request you to communicate with the Government of Japan and ascertain if the location of such a permanent firing place would be conceded by His Imperial Majesty's Government as a matter of international comity towards the United States.

I have the honor to remain,

Very respectfully,

Your obedient servant,

George E. Belknap,

Rear Admiral U. S. Navy.

DEPARTMENT OF STATE
FEB 12 1890
RECEIVED.

Mr. Crider

No. 83.

DIPLOMATIC BUREAU.
FEB 12 1890

2D ASSISTANT SECRETARY.
Ack. by Number and File.
FEB 12 1890

Legation of the United States.

Tokio Japan. January 17. 1890.

Mr. Swift.

To the Secretary of State.

Subject:

Information relative to the weights and measures of Japan, transmitted to the Bureau of Weights and Measures, United States Coast and Geodetic Office.

No. 85. Legation of the United States.

Tokio Japan, January 17, 1890.

Hon. James G. Blaine

Secretary of State

Washington D.C.

Sir.

I have the honor to inform you that, in compliance with your Circular instruction dated September 27, 1887, I have, by this mail, transmitted to the Bureau of Weights and Measures of the United States Coast and Geodetic Survey Office, the information required in your Circular, relative to the weights and measures of Japan.

I have the honor to be

Sir.

Your obedient servant-

John F. Swift

DEPARTMENT OF STATE
FEB 18 1890
RECEIVED.

DIPLOMATIC BUREAU
FEB 25 1890

Mr. Adee

No. 86.

Legation of the United States
Tokio, Japan, Jany. 22, 1890

2D ASSISTANT SECRETARY.
acknd a. a. ai draft.
Feb 26, 1890 Philip
FEB 25 1890

Mr. Dwight

To the Secretary of State.

Subject:

Article in the Japan Herald regarding Diplomatic Matters.

No. 56. Legation of the United States.
Tokio, Japan, Jany. 22, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

A serial article recently — appeared in the "Nichi Nichi Shimbun," one of the most — characteristic as well as respectable and trustworthy Tokio vernacular newspapers, which article purports to give a historical <u>resumé</u> of the political affairs of Japan for the year just closed.

English translations of it have been published in the Yokohama papers, from one of which, the

"Japan

"Japan Herald." I have taken a clipping of so much as relates to the subject of diplomacy and treaty revision and now have the honor to enclose the same herewith for your information. This article will give you a succinct account of what has occurred within the past year, as well as a tolerably correct idea of the situation at this moment.

You will observe that mention is made of the fact that both the party known as the "Daido Danketsu" and the "Conservative party" based their opposition to the treaty on the ground that they feared when the work was completed "the country would fall into the hands of the

the foreigners."

Referring to my No. 83, in which I discuss what I suspect to be the actual cause of the opposition to the treaties, I will repeat what I then said and add that I am more than ever convinced that whenever we get at all the facts and when all the feigned and false issues come to be swept aside, we shall find that the real, underlying and controlling element of the opposition to the treaties is the fear entertained by the intelligent middle and business classes, "that the country will fall into the hands of the foreigners," - unless they are restricted within

something

something like present bounds.

That the highly educated Japanese, particularly the Official class, are fully aware of this I have no sort of doubt. That they themselves are generally far from such feeling is unquestionable. And that they are anxious to overcome such feeling in their own people and bring them to their own way of thinking is no doubt substantially true. It is also true that, in spite of many rebuffs and backsets, the Government goes on experimenting in treaty revision chemistry in a patriotic but, perhaps not altogether imprudent, effort to find some method by which

which Western Nations may be induced to recognize Japan as their equal in civilization and advancement without yielding concessions that may lead to a sacrifice of their own individual lives to political assassins.

Another important truth is that the ancient Japanese custom of assassination and suicide so curiously unique and bizarre, which survives almost a generation after the system under which it flourished has passed away, is perhaps all that stands in the way of a general throwing open upon some terms of the country to foreigners.

Except for the remains of this lingering

lingering institution of old Japan the Government, with its excellent army and splendid police could easily force such a measure upon the country, no matter how reluctant the great majority might be at least in the beginning. But a cabinet, however powerful and despotic in legal authority, but which within the last twelve months has seen two of its most gifted and popular members struck down by self-devoted assassins, and this in spite and in the actual presence of armed body-guards, forewarned of the danger, may well hesitate and recoil when confronted with such a peril.

Nor

Nor is the peace of this impending danger likely to sleep in face of the fact that a lock of hair, all that was preserved from the cremated corpse of the latest assassin, was divided up among numerous admirers, and "each particular hair" made the subject of a most separate public funeral in this Capital, followed by something very like divine honors at each grave. And, unless I greatly misjudge the situation, while the statesmen of Japan are thus patriotically — proceeding with their treaty experiments, they are patriotically and systematically trying to shut their own eyes to the

dangers

dangers they themselves run as individuals and they just as systematically and patriotically try to conceal from the eyes of foreigners any — dangers of a similar nature they may incur. To this end they energetically press and harp upon the point that the so-called "diplomatic notes" controvert and violate the constitution which has been promulgated and which at some time in the future is to go into effect, along with many other objections equally attenuated and insubstantial.

All of these seem to be mere shifts of subtlety, the suggestion of extreme, even if misdirected

patriotism

patriotism designed to cover up
a state of things which the —
educated and travelled statesmen
at the head of the Government
sincerely deplore and the very
existence of which they are —
exceedingly unwilling to admit
to foreigners nor, perhaps, even
to themselves in its entire —
extent.

It is a cause of regret that
the gentlemen I refer to should,
in their extreme patriotism,
desire to conceal a state of things
as important for the world to
know. It is nothing to be
ashamed of. When we remember
what Japan has passed through
the wonder is that matters are

not

nor worse. Nothing so fully proves the national amiability of the Japanese as well as that civilized quality which takes form in obedience to law, as the fact that such tremendous progress has been made in a single life-time and that foreigners here are as safe and as generously treated as they are. This is indeed a just subject of admiration and congratulation.

Nothing like it has occurred in history. All that is wanted is just a little patience. The statesmen of Japan have brought their beloved country very nearly to the goal of their ambition. They risk much by

by forcing the match at a pace beyond her powers and beyond the powers not alone of Japan but of any people so circumstanced.

I also desire particularly to call your attention to the reference made by the "Nichi Nichi" to the "Arashima affair" as indicative of the effect of that and similar conversions, notably that of the return of the "Shimonoseki fund" upon Japanese opinion.

I pray will remember that the "Arashima affair" was the case of some native Japanese villagers who were killed or injured while ignorantly

handling

landing some unexploded shells that had been carelessly fired by an American man-of-war in target practice on the coast of Japan. My impression is that no demand was ever made on the behalf of Japan, but that Congress, of its own motion, purely out of a desire of generous justice, appropriated $15,000 for the benefit of the sufferers. You will observe that the payment is treated, if not as having been actually exacted, at least as resulting from the increased dignity of Japan and as especially due to the same inflexible policy of

Count

Count Okuma which had forced, as they seem to think, the United States to separate from the other powers and agree to the treaty of February 20, 1889. These matters, says the "Nichi Nichi," referring to the payment of the indemnity by the United States to the Shimonoseki sufferers along with some trifling dispute about land leases and an illegally constructed wharf at Kobe, "were insignificant in themselves but they were sufficient to show that the self-will of foreigners would not be tolerated."

I need hardly say that

I

I do not know upon the policy of indemnifying the poor fishermen who were killed or injured through the negligence of the American ships in throwing unexploded shells upon their coast in target practice in the same light as the return of the Shimonoseki fund, as expressed in my No. 81, dated January 24th, 1890. This money paid to the Japanese fishermen was an act of simple justice that ought to have been performed quite regardless of what Japanese politicians might think of our motives in doing it. We know that it was not reluctantly yielded by a nation of self-willed foreigners

because

because of Count Okuma's
"inflexible policy" nor because
of Japan's "growing power or
dignity", but rather from a
belief in the very contrary
of all of this. It is very
doubtful if Congress would
have been in such haste to
pass a bill for the relief of
persons injured by carelessly
handling a charged shell
fired by one of our Men-of-
war on the coast of any one
of the great European Pow-
ers. Such payment, if made,
would have probably been after
long diplomatic discussion
and then as the result of some
general adjustment of claims

and

and counter-claims.

But that this act as well as that of the return of the Shimonoseki fund were interpreted not as measures of either justice or generosity but rather evidence of respect to "growing power" is to me very manifest and the article enclosed bears out this view. I merely point it out to illustrate the extent and growth of Japanese knowledge of outside matters. This, again, is not in any sense discreditable to Japanese intelligence when all things are considered.

The vanity of the most enlightened nations is one of the

the curious manifestations of aggregate human thought. That Japan should have her full share is only natural. Her opportunity for the study of foreign countries and their characteristics is more restricted than that of most intelligent people, with this as one of the natural results.

The articles also enclosed detailing the history of the Cabinet changes within the last year are only a degree less interesting than that to which your attention is specially called, namely, "Diplomatic Affairs." I append them in the hope that you may

be

be disposed to glance them over.

I have the honor to be
Sir
Your obedient servant,
John F. Lair

Enclosures: Clippings from the "Japan Herald" of January 17th., 1890.

Enclosure with Mr. Swift's No. 86.

The Japan Daily Herald

MAIL SUMMARY.

Per P. M. S. S. *City of Rio de Janeiro.*

YOKOHAMA, 17TH JANUARY, 1890.

GREAT EVENTS OF 1889.

(From the *Nichi Nichi Shimbun*)

Diplomatic Affairs.

There are many unpleasant things to relate in regard to the diplomatic history of 1889. For the first half of the year matters were progressing in a fair way, and everything presented a pleasant appearance, but in the second half the reverse was the case, as all was confusion and disturbance. All political questions were obstructed by it, and although we may feel compunction in giving these circumstances, yet we consider we are bound to fairly relate the facts, for should they be withheld, posterity may be misled by future garbled accounts.

When Count Okuma, the Minister of Foreign Affairs, took in hand the guidance of diplomatic matters, he was aware of the failure of the course pursued by Count Inouye, therefore he went on an entirely new tack to that practised by the latter. Thus he followed an inflexible policy in contradiction to the lenient policy pursued by his predecessor, and commenced by breaking through the combination of foreign powers, and opening negotiations with each power separately. Steady progress being made in this course, signs of dissatisfaction appeared among the foreigners at first, but as what we were doing was in accordance with reason and justice, foreigners at last agreed, one after another, to keep fast to the provisions of the treaties then in force, and open negotiations separately by each withdrawing from the combination. In March last the United States paid us an indemnity for the Ikeshima affair, and in June we gained our point regarding the lease, of land in Kobe, as well as the removal of a wharf built there by foreigners. These matters were insignificant in themselves, but they were sufficient to show our dignity and that the selfwill of foreigners would not be tolerated. The authorities may have thought that the work of treaty revision could be easily perfected as such steps were so easily taken, and we thought so likewise. This was the diplomatic history for the first half of the year.

When a man performs distinguished services for his country the public will praise him even though he extols his own works, so also will the public support him if he has contrived any benefits for the country although their help may be unasked for. If the policy of Count Okuma was beneficial to the country, it would have been best to await the praises of the public, but even before his work was completed the Liberal papers began to praise him, and attempted to raise his name at the expense of his predecessor, which somewhat aroused the suspicions of the public. As they did not, however, know anything of the drafts of the revised treaties, nor of the provisions of the diplomatic notes, they could not praise or criticise his work. The public trusted the Minister of Foreign Affairs, and heard the praises and eulogies poured upon him unconcernedly, believing he would not do anything that would prove injurious either to the dignity or welfare of the country. It is usual for secrets to be divulged by foreigners, so this time the gist of the draft of the new treaties appeared in the *London Times*, which was at once translated and published in the Japanese papers The public on reading this, had their suspicious aroused, and saw that this did not at all harmonize with the praises bestowed on him by the Liberal papers. In the draft there was found an insurmountable obstacle in the shape of a contradiction to the Constitution. The persons who were in charge of the work of revision may have thought the draft of the treaties and diplomatic notes would be completed before the promulgation of the Constitution, and as the work had advanced thus far the public would not object to it, but when the constitution was promulgated before it, and they were referred to it, it was found that the provisions of the diplomatic notes were impracticable and that if they were put in force there was a fear of the Constitution being rendered void. It was about the beginning of July last that this question came up for solution, but the authorities did not seem to be at all crushed at this *contre-temps*, and pushed on the work vigorously. Thus the treaty with the United States was signed in July, and Germany also subsequently signed one. On the 6th of August, Russia did likewise, and although the authorities may have been very much elated at this success, those ranged in opposition to treaty revision began to feel anxious. Before this, however, both the *Daido Danketsu* and Conservative parties became anxious about the draft of the treaty, fearing that the country would fall into the hands of foreigners when the work was completed. In the meantime, public opinion came to the conclusion that as this question of treaty revision concerned the people, it therefore should not be made a party question, and when on the 9th of July the Liberals held a meeting at the Shintomiza, supporting the draft, and attacking all those who were opposed to it, they became suspicious. This made the draft look as if it were the exclusive property of the Liberal party, and thus those who were opposed to it attacked the Liberal party.

On the other hand, when we look at the Government circle, there seems to have been union, but Count Ito began to speak of the provisions of the diplomatic notes being contrary to the Constitution, and Count Goto also seems to have been opposed to it. In the Privy Council, Viscount Torio objected to the draft as a whole, and Lieut.-General Tani, who was opposed to the draft proposed by Count Inouye, also showed his opposition to this. The public also became agitated by this time. On the 15th of August the five political associations which were opposed to the new treaty held a meeting at the Chitoseza when speeches were made condemning it. Since then the disputes for and against revision became very keen, which was shown by the number of memorials forwarded to the Senate for and against treaty revision, besides which *soshi* were sent out by both parties into the interior to inculcate their opinions. The Liberal party again held a meeting on the 26th of September, with the view of regaining the confidence they had lost. Although a large number of police protected the place, the meeting ended in confusion and disturbance, owing to the obstruction of the other parties. This may also have been in consequence of their being in opposition to the will of the masses, and in truth such a scene of confusion, uproar and disorder at a public meeting has never been witnessed before.

When it came to the end of September, those who were opposed to revision had exhausted all their arguments against it, and had forwarded

all the memorials they could in support of their contention. Those in favour of revision had likewise done all they could in the way of pushing it forward, so that both parties stood, as it were, confronting each other, after having exhausted all their arguments for and against the question at issue. In the Cabinet itself the dispute became gradually accentuated, Count Ito standing firm in his opposition, while Count Goto was urging that a Cabinet Council should be held in the presence of the Emperor. Count Kuroda, however, would not agree to this, and thus the political aspect presented a gloomy appearance. It was feared that unless some influential man should decide the matter from outside, the inward pressure might cause a collapse, which would make the settlement of the question one of considerable difficulty. Fortunately, the return of Count Yamagata, who had been travelling in Europe since the year before last, was momentarily expected, and both the Government and people looked upon him as the only person capable of settling the matter. He returned on the 3rd October, and as he may have been confronted with conditions and circumstances which he had not expected to see, he did not give his decision at once, but retired to Oiso where he could study the question in seclusion and quiet.

Now a new phase in this question was evolved on the 11th of October by the resignation of Count Ito. Count Ito had previously advised an amendment of the draft, arguing on its contradiction to the Constitution. Count Inouye returned from Isobe at the request of Count Okuma and met him and Count Ito at his residence at Toriizaka, where an attempt was made to harmonize the differences existing between them, which was almost successful. Subsequently, however, other conferences were held at the residence of Count Kuroda, at Mita, where a compromise was apparently made, but in consequence of some circumstances Count Okuma could not put into force the points agreed on, and it was his intention of pushing on the work by the former method followed by him. In the meantime rumours gained currency that the ratification of the new treaty with Russia would shortly be made. Thinking probably that if the work failed on the verge of ratification the difficulties would be increased, Count Ito sent in his resignation. The authorities, as well as the public, were greatly surprised at this unexpected event, and Count Okuma tried to dissuade him from doing so, Count Kuroda also subsequently calling on him for the same purpose. An Imperial messenger was also sent from the Court, as the pressure in the Cabinet became very great in consequence thereof, and much anxiety was felt. The consequence was that on the 15th of October the postponement of their Majesties' intended visit to Kyoto was announced, thus showing their concern for the welfare of the country.

On the 15th of October the Emperor proceeded to the Cabinet where a council was held in his presence. On this occasion Count Goto, for the first time, expressed his objections to treaty revision, and Count Yamagata asked questions of Count Okuma which was the outset of his decision in the matter. On the 17th Count Yamagata called on Count Okuma at his official residence, and had a conference with him on the revision of the treaties which lasted from 10 a.m. to 3 p.m. Count Okuma seems to have been convinced of some of his errors at this conference, as he became much more moderate in his views and promised to settle the matter amicably by conferring with his colleagues on the matter. It seems that at this conference one of the questions at issue was decided, as the next day Count Yamagata called on Count Kuroda, at his residence at Mita, where he expressed his views. Count Kuroda appears to have agreed with him and promised to settle the matter by a consultation with the others. Whether the point agreed on was for postponement or discontinuance of the work is not certain, but the fact that the pushing on of the work should be postponed was apparently agreed upon.

Counts Kuroda and Okuma are experienced statesmen, and what the public expected of them was that they should be convinced of the fruitfulness of their attempt, when the tide of public opinion was against them, previous to settling any question before them. It was also thought that the matter would be settled amicably, no matter whether the two Ministers mentioned took it in hand, or retired from the scene on the ground that it was impossible for them to take the responsibility on their own shoulders. But an unforeseen incident occurred, which put a great obstacle to the fulfilment of this hope, and this was the attempted assassination of Count Okuma by Kurushima. On the 18th October, as the carriage of Count Okuma was entering the gate of the Foreign Office, on his return from the Cabinet, a bomb-shell was thrown at him by the person named above, which wounded him very severely. This occurrence took the public by surprise, and though precautions were taken to guard against any future recurrence of such an attempt, it could not undo the mischief done. The wounds sustained by the Minister were severe, and it became necessary to amputate one of his legs. His physicians would allow no one to see him, as his wounds were serious. Thus he was secluded from the political world, and matters connected with treaty revision could not be brought to an end. The hand of an assassin not only wounded a Minister of State, but it was the means of obstructing and injuring the parties for and against treaty revision. The heinousness of his crime in putting to naught an important affair of the country cannot be too severely condemned. Since this incident the business of the Cabinet became unsettled for several days, and the symptoms of separation became more defined. At last, on the 22nd of October, Count Kuroda, the Minister President of State, sent in his resignation as well as those of the other Ministers of State. For a time there was no Cabinet, but on the 25th of the same month Prince Sanjo was appointed Minister President of State, retaining at the same time the post of Lord Keeper of the Privy Seals. On the same day Count Kuroda was made a Privy Councillor, and the other Ministers were instructed to remain in office, Counts Inouye and Okuma excepted.

However, it could not be said that a new Ministry had been settled by the above. Count Okuma had not recovered, and the policy relative to the revision of the treaties was undecided. Thus the matter was protracted until the middle of December, when, Count Okuma having recovered, he sent in his resignation on the 15th. It was accepted on the 24th, when he was appointed a Privy Councillor. By this the Cabinet was changed, Count Yamagata becoming the Minister President of State, retaining at the same time the portfolio of Minister of Home Affairs, and Viscount Aoki was promoted from Vice-Minister to be Minister for Foreign Affairs. The policy relative to treaty revision seems to have been now settled.

The above is the diplomatic history of the second half of last year. We cannot but feel sad at such disorder, as politics were involved in the whirlwind of this disturbance. The business of the Government was obstructed and the preparations for the Imperial Diet delayed, while the difference between political parties became keener. Thus all was disorder and riot with no redeeming points.

The future policy regarding revision must have already been decided by the Cabinet, and though we have ascertained its policy, we shall refrain from giving it publicity for fear of impeding the action of the authorities. However, the present treaty should not be left unrevised, as the public are dissatisfied with it, nor will they now advocate the expulsion of foreigners. The treaties now in force must, without doubt, be revised, but if the draft should contain sections against the provisions of the Constitution, the public would not tolerate it, by whomsoever it may be proposed. No man will give his approval to anything detrimental to the dignity of the country or injurious to its welfare. Those who undertake the work this year should settle all previous matters smoothly and be careful to avoid making errors. In the work of revision we have failed not only once or twice, but thrice, which is a thing casting great discredit upon us What we hope for is that the authorities will act in accordance with public opinion and not fail in a similar manner as their predecessors.

Change of the Cabinet and Retirement of Four Great Statesmen.

(Continued from 6th January.)

Last year was remarkable for the number of changes in the Cabinet. Although these changes were necessitated by the spirit of the times or caused by unfortunate incidents, yet taken altogether they showed bad omens for the country. When Count Kuroda was still Minister President of State, he made himself conspicuous by his comprehensive views, one of his works being the incorporation of a scheme called the *Koshin Mora-saku* for the purpose of collecting distinguished men into the Cabinet. With this object in view, Count Okuma was entrusted with an important position, while Count Inouye was induced at the same time to leave the Court to accept the position of Minister of Agriculture and Commerce. While this gathering together of influential men was being proceeded with, an unfortunate incident occurred, which was none other than the lamented assassination of Viscount Mori, and this, in the eyes of the public, was another vacancy for an able man. The day in question was the festival of the *Kigensetsu* (accession of Jimmu Tenno) as well as the occasion of the Promulgation of the Constitution, which latter may well be called the beginning of the second era for this country. On the 11th February, as Viscount Mori was on his way to the Palace, he was detained and severely wounded by an assassin, and succumbed the following day. The public were dumbfounded at this, seeing how unfortunate it was for the country, without saying anything about the loss of a valuable life. There being a vacancy to be filled by this regrettable occurrence in the Cabinet, considerable curiosity was evinced as to who should fill the post. There was another surprise, however, in store for them—the sudden entrance of Count Goto into the Cabinet. If the Count had only been a distinguished subject, very little, if any, surprise would have been evinced, but as he was the head of the *Daido Danketsu* (Unionist) party and had severely attacked the Government's policy, there was consequently much comment regarding his admittance into the Kuroda Cabinet. At the same time it was also rumoured that Count Itagaki would enter the Cabinet. The effect of the *Koshin Mora-saku* was the assembling of first-rate statesmen in the Cabinet, and was unparalleled in its magnificence. However, as good is inevitably accompanied by some germs of evil, notwithstanding that its chief object was attained, the seeds of disagreement already in existence began to grow, the first step in this direction being the desire of Count Inouye to send in his resignation, as soon as possible, while a similar desire seems to have also sprung up in the breast of Count Ito at the same time. The other Ministers also seemed to be uneasy and were apparently only waiting for a good chance to do likewise. While the Cabinet was in this state, the question of treaty revision was pressed, in July and August, the result being that a disagreement occurred. This was the opportunity for a division, so Count Ito, the President of the Privy Council, sent in his resignation on the 10th of October, in which step he was subsequently followed by Count Inouye. In the Cabinet, Count Yamagata, who had just returned from abroad, could not agree with the opinions prevalent regarding the pushing forward of treaty revision, being seconded in his contention by Count Goto, hence much anxiety was felt, but Counts Kuroda and Okuma accepted the advice of Count Yamagata, towards a peaceful arrangement of the matter. Unfortunately, however, in the afternoon of the 18th, a person named Kurushima Tsuneki threw an explosive at Count Okuma at Kasumigaseki as he was returning from the Cabinet, and wounded him severely. It is mournful in the extreme that two such attempts at assassination should be made in one year, although fortunately, in this case, Count Okuma managed to escape with his life. Count Okuma was confined to bed in consequence of his injuries and could not speak on political matters. Under such adverse circumstances, even the dauntless Count Kuroda could do nothing, and he therefore sent in his resignation, bearing all responsibility upon his own shoulders. The other Ministers could not look on this unconcernedly, and they sent in their resignations in a body on the 19th of October. Since then there has been no fixed Cabinet, some desiring Count Yamagata to assume the post of Minister President of State, but this post he postively declined to accept. There being no other person eligible for the post, H.I.M. the Emperor, feeling concerned at this unsettled state of affairs, instructed Prince Sanjo to assume the position. He could not decline it, so he accepted the post on the 22nd of October. The public did not accept it as a permanent Cabinet, always speaking of it as a provisional Cabinet. Prince Sanjo himself seems to have only accepted the post as a stopgap, which was in fact the case, as Count Inouye's position as Minister of Agriculture and Commerce was unsettled, and the desires of Count Okuma unknown. While this was being awaited, rumours of another change in the Cabinet began to gain currency, as the question was being discussed in Government circles. On the 28th of October the resignation of Count Ito was accepted, and instructions were given him that he would be appointed a Count Councillor. The Count then sold his house and removed to Odawara where he seemed to be busy in proclaiming his unwillingness to further interfere in politics. Subsequently Count Inouye returned to Tokyo from Mitajiri, and was firm in his intention of resigning, Count Okuma also decided to do likewise as soon as he became acquainted with the course of events, leaving the Departments of Agriculture and Commerce and of Foreign Affairs without heads. It therefore became necessary that a change in the Minister President of State should be effected, together with the appointment of a Minister of Agriculture and Commerce, and of Foreign Affairs. It now became obligatory upon Count Yamagata to form a new Ministry, and as in all countries the formation of a Ministry is a work of considerable difficulty, this is accentuated in Japan, where the obstacles to be overcome are more compact. At last on the 23rd of December a new Ministry was formed, and the resignation of Count Inouye, the Minister of Agriculture and Commerce, accepted, he being the same day appointed a *Jakonoma Giko* The resignation of Count Okuma, the Minister of Foreign Affairs, was accepted the next day, the 24th, and he was appointed a Privy Councillor. The same day Count Yamagata accepted the post of Minister President of State, retaining at the same time the portfolio of Minister of Home Affairs. Viscount Aoki, the Vice Minister of Foreign Affairs, was promoted to be Minister, and Mr. Iwamura the Vice Minister of Agriculture and Commerce, was promoted Minister of the same, while Count Oki, the President of the Senate, was transferred to the same position in the Privy Council. This is the new Ministry as formed, and they are to agree and unite in the discharge of their high and responsible duties. The above is a brief outline of the Cabinet changes of last year. We congratulate the country that persons of such ability have been appointed, but hope they will discharge their responsible duties, always bearing in mind the fact that the Cabinet will hereafter be under under a constitutional system.

The Retirement of Four Great Statesmen and the Advancement of New Statesmen.

We have already given the changes which took place in the Cabinet last year, and *apropos* the above there is one thing which must of necessity be remarked, and that is the withdrawal of old statesmen from their posts, and the advancement of new statesmen to fill the vacancies. We mean by this the retirement of Counts Ito, Kuroda, Inouye and Okuma, and the entrance into the Cabinet of Viscount Aoki, and Mr. Iwamura. The retirement of old statesmen cannot be but regretted, while at the same time the advancement of new statesmen is a matter for congratulation.

Count Ito retired for certain specified reasons, nevertheless his secession is much to be regretted. Without saying anything of the work he did at the Restoration, he co-operated with the late Okubo, the Minister of Home Affairs, at the important time subquent to the Restoration and considerably improved the home administration. Moreover, he has been concerned in politics for over ten years, and having been long in Europe and America, he is well acquainted with current matters. In fact it is impossible for us to find, among the statesmen of this country, many who can stand above him in knowledge and experience. He was gifted with the ability of harmonising the conflicting views and interests of the Satsuma and Choshiu clans, which contributed greatly to the maintenance of peace. His ability in this matter may seem to be insignificant, but anyone who is conversant with the present condition of politics, will not grudge him any of the credit that is undoubtedly due him. His great work, however, was the drafting of the Constitution, which is the standard for posterity, under Imperial instruction, and we think he would have added lustre to his work had he waited to see it in operation, but he had made up his mind to sever himself from political circles before the sessions of the Imperial Diet, and retired into the country. The retirement of oneself after having done meritorious deeds and obtained a name, is what has been done by wise men in old times, therefore Count Ito's present step may be best for himself, but if considered from the point of his duties to the government, it is regrettable.

The retirement of Count Kuroda was due to unavoidable causes over which he had no control, but his courage and influence, together with his strict observance of the code of honour by which he never broke a promise, and bore all responsibily for his own actions upon his own shoulders, were one of the material components of a busy Cabinet. The work of treaty revision is not yet completed, while the time for the opening of the Imperial Diet is rapidly approaching, when the loss of such a man as Count Kuroda will be most severely felt.

Count Inouye's retirement was necessitated by certain existing circumstances, and his decision of never again entering the Cabinet will not be shaken notwithstanding all the arguments and persuasion which may be brought to bear upon him. His ability in settling complicated and difficult matters admits of no doubt, as is proved by his meritorious services of full thirty years. However much he may be feared by the public, there are certain things even now which cannot be settled by any other person than Count Inouye, and the need of his services will be felt in the future, when he will again be in request.

Especially unfortunate is the retirement of Count Okuma, as his cleverness and fertility of expedient are unparalleled. The only thing to be regretted is that his plans and arrangements went beyond ordinary bounds, so that if they had succeeded, the benefits to be derived from them would have been great, but in case of failure, the effects could not be well estimated. He must have calculated everything to a certain end, but the public could not understand it. Thus his work were liable to be combatted before completion, and this tended toward failure. His financial policy failed before completion, and now his diplomatic policy has again failed on the verge of completion. In addition to this, he was misunderstood and met with a misfortune which at last obliged him to go into retirement. We regret the loss of Count Okuma for his sagacity, and of Count Inouye for his ability.

The above four statesmen have performed distinguished services to the country previous to and after the Restoration, and they were first rate statesmen. Although the causes of their retirement are different, they all retired at the end of last year, so that their ability and experience is not at the command of the present Government, but although they do not actually attend the councils of the Government, they are, nevertheless, the support and bases of the country. They should study the welfare of the people when in office, and regard the Emperor with loyalty when outside the Government circle, and thus exert themselves directly and indirectly for the good of the country, and their sovereign.

As a set-off for the retirement of these old statesmen, Viscount Aoki and Mr. Iwamura came forward. We have said before that the position of Cabinet Minister was not limited to Counts and that the Cabinet was not an exhibition room of Peers. Therefore the chief thing to be observed is their ability and opinions of its different members no matter whether they should be Viscounts or have no title whatever. The advance of these two Ministers is in harmony with this principle. Although it may be disrespectful to say so, they stand second in their personal histories and merit compared with Counts Ito, Kuroda, Inouye and Okuma, but when a man is appointed to a position and entrusted with authority and responsibility, he will surely perform meritorious deeds As the case stands, we are not at all dissatisfied with it. For instance Count Ito is now a firstrate statesman, but when the late Okubo Toshimichi was yet alive he stood in a secondary position. The public were anxious when Count Ito succeeded the late Okubo Toshimichi. When Saigo was alive, Count Kuroda held a secondary position, but now his influence is almost equal. We are very glad that by the advance of these two Ministers the fact that the order of nobility is in no wise connected with Cabinet Minister is shown, and that a way for the advancement of young and able statesmen has been opened by this. We hope that they will arouse themselves, and by performing distinguished services to the country prove also that they are first rate statesmen.

Kuechhofer

DEPARTMENT OF STATE
FEB 18 1890
RECEIVED.

DIPLOMATIC BUREAU.
FEB 18 1890

Legation of the United States.
Tokio, Japan. Jany. 27, 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Duplicate Statement of Salary Account, Nov. 28th. to Dec. 31st. 1889.

Legation of the United States.
Tokio, Japan, Jany. 29, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith a duplicate of my salary account for the period between Nov. 25th and Dec. 31st, 1889, inclusive.

I have the honor to be
Sir,
Your obedient servant
W. R. Gardiner Jr.
Second Secretary of Legation.

Acc Shoefer

DEPARTMENT OF STATE
FEB 18 1890
RECEIVED.

DIPLOMATIC BUREAU.
FEB 18 1890

Legation of the United States
Tokio Japan, Jany 27, 1890.

Mr Dun.
To the Secretary of State.

Subject:
Duplicate Statements of accounts
for the Quarter ended Dec 31. 1889.

Legation of the United States.
Tokio Japan, Jany 27, 1890.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

I have the honor to enclose herewith, duplicate statements of my accounts for salary and for loss by Exchange for the quarter ended December 31. 1889.

I have the honor to be
Sir,
Your obedient Servant.
Edwin Dun
Secretary of Legation.

Enclosure.
As above

Miscellaneous

DIPLOMATIC BUREAU.
FEB 18 1890

No. 87.

Legation of the United States.
Tokio, Japan, Jany. 27, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Duplicates of accounts for the quarter ended Dec. 31, 1889.

No. 87. Legation of the United States.
Tokio, Japan, Janry. 27, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith duplicates of my accounts for the quarter ended Dec. 31st., 1889, the originals of which I sent with my No. 82, dated January 15th., 1890.

I have the honor to be
Sir
Your obedient servant,

John A. Swift

Miscellaneous

DEPARTMENT OF STATE
MAR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 1 1890

Legation of the United States.
Tokio, Japan, Jany. 31st., 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Account for Loss by Exchange,
Quarter ended Dec. 31st., 1889.

Legation of the United States.
Tokio, Japan. Jany. 31st, 1890.

Hon. James G. Blaine
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith my account for Loss by Exchange on drafts drawn on the United States Government for the Quarter ended December 31st, 1889.

I have the honor to be
Sir
Your obedient servant,
W. R. Gardiner Jr.
Second Secretary of Legation.

Enclosure: Account as above.